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**VOLUME I**

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**Supreme Court of the United States**

**OCTOBER TERM, 1967**

**No. 69**

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**VOLKSWAGENWERK AKTIENGESELLSCHAFT,  
PETITIONER,**

**vs.**

**FEDERAL MARITIME COMMISSION, ET AL.**

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**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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**PETITION FOR CERTIORARI FILED MARCH 20, 1967  
CERTIORARI GRANTED JUNE 12, 1967**

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(Docket 1)

**Docket Before the Commission**

(Docket 1)

DOCKET No. 1089

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VOLKSWAGENWERK AKTIENGESELLSCHAFT,

*against*

MARINE TERMINALS CORPORATION and MARINE TERMINALS  
CORPORATION (OF LOS ANGELES).

---

*Exhibit No.*

*Description*

1. Complaint, dated January 17, 1963, 10 pages, with 1-page Power of Attorney, and 8-page Exhibit A, 4-page Exhibit B, 4-page Exhibit C, 11-page Exhibit D, 4-page Exhibit E, 8-page Exhibit F, 11-page Exhibit G, 8-page Exhibit H, 4-page Exhibit I, 1-page Exhibit J, and 1-page Exhibit K.
2. Answer to Complaint, dated February 15, 1963, 5 pages.
3. Notice of Assignment, dated February 18, 1963, 1 page.
4. Petition of Pacific Maritime Association to Intervene in Opposition to the Complaint, dated February 18, 1963, 9 pages, with 2-page Exhibit A and 4-page Exhibit B.
5. Permission to Intervene, dated February 27, 1963, 1 page.
6. Reply of Complainant to Petition of Pacific Maritime Association to Intervene in Opposition to the Complaint, dated March 7, 1963, 11 pages.



*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
7.	Notice of Hearing, dated March 25, 1963, 1 page.
8.	Location of Hearing Room, dated March 29, 1963, 1 page.
9.	Application for Subpoena <i>Duces Tecum</i> , dated April 4, 1963, 5 pages.
10.	Ruling on Application for Subpoena <i>Duces Tecum</i> , dated April 12, 1963, 1 page.
11.	Late Filed Exhibit, dated May 29, 1963, 1 page.
12.	Complainant's Brief and Proposed Findings of Fact and Conclusions of Law, dated June 21, 1963, 45 pages, with 14-page Appendix.
13.	Permission for Pacific Maritime Association to Exceed the Limitation on Length of Briefs, dated July 16, 1963, 1 page.
[2] 14.	Brief of Intervener, Pacific Maritime Association, dated July 23, 1963, 70 pages; with 8-page Appendix.
15.	Respondents' Answering Brief, dated July 19, 1963, 11 pages.
16.	Complainant's Reply Brief, dated August 12, 1963, 29 pages.
17.	Initial Decision, dated June 4, 1964, 38 pages, with 17-page attachment.
18.	Request of Complainant for Enlargement of Time within which to File Exceptions to Initial Decision, dated June 12, 1964, 8 pages.
19.	Pacific Maritime Association's Reply to Request of Complainant for Extension of Time, dated June 16, 1964, 3 pages.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
20.	Enlargement of Time for Filing Exceptions and Replies, dated June 18, 1964, 1 page.
21.	Request of Complainant for Permission to File a Brief in Support of its Memorandum of Exceptions in Excess of Fifty Pages, dated July 30, 1964, 6 pages.
22.	Complainant's Memorandum of Exceptions and Brief, dated July 30, 1964, 75 pages, with 6-page appendix.
23.	Exceptions and Brief in Support of Exceptions of Respondents Marine Terminals Corporation and Marine Terminals Corporation (of Los Angeles), dated July 24, 1964, 12 pages.
24.	Enlargement of Time for Filing Replies to Exceptions, dated August 4, 1964, 1 page.
25.	Reply of Respondent to Complainant's Exceptions, dated August 28, 1964, 3 pages.
26.	Intervener's Answering Brief in Support of Initial Decision of Examiner, dated August 31, 1964, 43 pages, with 27-page Appendix A.
27.	Notice of Oral Argument, dated October 14, 1964, 1 page.
28.	Allotment of Time at Oral Argument, dated October 28, 1964, 1 page.
29.	Transcript of Oral Argument, November 4, 1964, pages 1 through 92.
30.	Report of the Commission, dated October 13, 1965, 65 pages, with 1-page Order.
31.	Transcript of Hearing, April 22-26, 1963, 440 pages, Volumes I-V.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
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[3] 32. The following Exhibits were received:

- |    |  |
|----|--|
| 1a | Memorandum of Understanding between Pacific Maritime Association and International Longshoremen's and Warehousemen's Union, dated August 10, 1959, 13 pages. |
| 1b | Memorandum of Agreement on Mechanization and Modernization, October 18, 1960, 9 pages, with 2-page Exhibit A.  |
| 1c | ILWU-PMA Supplemental Agreement on Mechanization and Modernization, November 15, 1961, 45 pages.   |
| 1d | Schedule A Death and Disability Benefits, 7 pages.   |
| 1e | Schedule B Vesting Benefits, 6 pages.  |
| 1f | Schedule C Supplemental Wage Benefits, 19 pages.   |
| 1g | Letter from Pacific Maritime Association to International Longshoremen's & Warehousemen's Union, dated November 15, 1961, 2 pages.                           |
| 1h | Letter from Pacific Maritime Association to International Longshoremen's & Warehousemen's Union, dated November 15, 1961, 2 pages.                           |
| 1i | Letter from Pacific Maritime Association to International Longshoremen's & Warehousemen's Union, dated November 15, 1961, 3 pages.                           |
| 1j | First Amendment to ILWU-PMA Supplemental Agreement on Mechanization and Modernization, dated October 29, 1962, 2 pages.                                      |

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
2a	Minutes of Annual Meeting of Members of Pacific Maritime Association, March 14, 1963, 4 pages.
2b	Minutes of Regular Quarterly Meeting of Board of Directors of Pacific Maritime Association, March 14, 1963, 9 pages.
2c	Minutes of Meeting of Board of Directors of Pacific Maritime Association, February 4, 1963, 4 pages.
2d	Minutes of Regular Quarterly Meeting of Board of Directors of Pacific Maritime Association, December 12, 1962, 9 pages.
2e	Minutes of Meeting of Members of Pacific Maritime Association, July 26, 1962, 3 pages.
[4] 2f	Minutes of Meeting of Board of Directors and American Flag Operators of Pacific Maritime Association, July 3, 1962, 10 pages.
2g	Minutes of Meeting of Members of Pacific Maritime Association, May 14, 1962, 5 pages.
2h	Minutes of Regular Meeting of Board of Directors of Pacific Maritime Association, December 13, 1961, 5 pages.
2i	Minutes of Meeting of Board of Directors of Pacific Maritime Association, November 7, 1961, 7 pages.
2j	Minutes of Meeting of Board of Directors of Pacific Maritime Association, August 10, 1961, 6 pages.
2k	Minutes of Meeting of Board of Directors of Pacific Maritime Association, July 11, 1961, 8 pages.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
2l	Minutes of Annual Meeting of Members of Pacific Maritime Association, March 13, 1961, 4 pages.
2m	Minutes of Regular Quarterly Meeting of Board of Directors of Pacific Maritime Association, March 8, 1961, 20 pages.
2n	Minutes of Meeting of Board of Directors of Pacific Maritime Association, January 16, 1961, 4 pages.
2o	Minutes of Meeting of Members of Pacific Maritime Association, January 10, 1961, 4 pages.
2p	Minutes of Meeting of Board of Directors of Pacific Maritime Association, January 6, 1961, 3 pages.
3	By-laws as amended of Pacific Maritime Association, April 1960, 46 pages.
4	Pacific Coast Longshore Agreement, 1961-1966, 139 pages.
5	Letter from American President Lines to J. Paul St. Sure, dated January 4, 1961, 1 page.
5a	Report of PMA Committee on Work Improvement Fund Contributions Procedures, dated January 4, 1961, 9 pages.
[5] 5b	Statement of Minority Opinion on ILWU Funding, dated January 4, 1961, 6 pages.
6	Letter from Pacific Maritime Association to members dated January 11, 1961, 2 pages.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
7	Letter from Winchester Agencies, Inc. to Pacific Maritime Association, dated January 17, 1961, 3 pages.
8	Telegram to Pacific Maritime Association from San Francisco Port Authority, 1 page.
9	Letter from Marine Terminals Corporation to Pacific Maritime Association, dated March 1, 1961, 1 page.
10	Letter to Pacific Maritime Association from Peter N. Teige, dated March 3, 1961, 4 pages.
11	Letter to K. F. Saysette from J. D. MacEvoy, dated March 24, 1961, 1 page.
12	Letter from Waterman Corporation of California to Associated Banning, dated March 23, 1961, 2 pages.
13	Letter from Marine Terminals Corporation to Pacific Maritime Association, dated May 1, 1961, 1 page.
14	Letter from Marine Terminals Corporation to Pacific Maritime Association, dated May 1, 1961, 1 page.
15	Letter from Pacific Far East Line, Inc. to Pacific Maritime Association, dated May 22, 1961, 1 page.
16	Letter from Seattle Stevedore Co. to Pacific Maritime Association, dated May 25, 1961, 2 pages.
17	Letter from Marine Terminals Corporation to Pacific Maritime Association, dated May 25, 1961, 2 pages.



*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
18	Letter from Brady-Hamilton Stevedore Co. to Pacific Maritime Association, dated May 25, 1961, 2 pages.
19	Letter from K. F. Saysette to H. J. Bodine, dated August 3, 1961, 2 pages.
[6] 20	Minutes of Committee on Work Improvement Fund Contribution Procedures, August 1, 1961, 5 pages.
21	Memorandum on the Mechanization Fund, August 15, 1961, 2 pages.
22	Memo to J. Paul St. Sure from P. Lancaster, dated October 24, 1961, 2 pages.
23	Telegram to Pacific Maritime Association from Seattle Stevedore Co., 1 page.
24	Telegram to Pacific Maritime Association from Brady Hamilton Stevedoring Co., 1 page.
25	Letter from Marine Terminals Corporation to Peter N. Teige, dated November 29, 1961, 1 page.
26	Letter from Winchester Agencies, Inc., to Peter N. Teige, dated November 29, 1961, 3 pages.
27	Memo to J. Paul St. Sure from Pres. Lancaster dated December 13, 1961, 2 pages.
28	Memo on Proposed Five to One Maximum Limitation on Assessable Tonnage for Automobiles, dated February 8, 1962, 1 page.
29	Memorandum for J. Paul St. Sure dated February 20, 1962, 1 page.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
30	Letter from Graham James & Rolph to Pacific Maritime Association, dated March 23, 1962, 1 page.
31	Memorandum to J. Paul St. Sure from Pres. Lancaster, dated March 27, 1962, 1 page.
32	Letter from McCutchen, Doyle, Brown & Enersen to Marine Terminals Corporation, dated December 10, 1962, 2 pages.
33	Letter from Waterman Corporation of California to California Stevedore & Ballast Co., dated January 25, 1963, 2 pages.
34	Letter from Pacific Maritime Association to members, dated January 17, 1961, 2 pages.
35	Letter from Pacific Maritime Association to members, dated January 17, 1961, 2 pages.
[7] 36	Letter from Pacific Maritime Association to members, dated February 3, 1961, 1 page.
37	Telegrams to Pacific Maritime Association from Albina Dock Co., the Commission of Public Docks, Portland, Oregon, the Port of Olympia, Washington, the Port of Astoria, Oregon, and the Northwest Marine Terminal Association, all dated December 22, 1960, 3 pages.
38	Letter from Pacific Foreign Trade Steamship Association to Mr. St. Sure, dated June 17, 1960, 1 page.
39	Letter from Pacific Maritime Association to Board of Directors, dated February 9, 1960, 1 page, with 5-page attachment.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
40	Letter from Pacific Maritime Association to Board of Directors, dated March 6, 1961, 1 page, with 5-page attachment.
41	Letter from Pacific Maritime Association to Board of Directors, dated March 13, 1962, 1 page, with 5-page attachment.
42	First Meeting—New Fund Committee, February 14, 1961, 3 pages.
43	Third Meeting, February 21, 1961, 2 pages.
44	Memo from PMA to Committee Members, dated February 24, 1961, 1 page.
45	Letter from Pacific Maritime Association to PMA Members, dated May 15, 1961, 1 page.
46	Letter from Pacific Maritime Association to Members, dated March 3, 1960, 1 page, with 10-page attachment.
47	Letter from Pacific Maritime Association to Members, dated July 3, 1961, 1 page, with 11-page attachment.
48	Pacific Maritime Association Errata Sheet, dated April 25, 1962, 1 page, with 11-page attachment.
49	Memorandum to K. F. Saysette dated April 22, 1963, 1 page.
50	Letter from Seattle Stevedore Co. to Winchester Agencies, Inc., dated November 30, 1961, 1 page.
[8] 51	Stevedoring order to Marine Terminals Corp., dated February 20, 1961, 1 page.

*Docket Before the Commission*

<i>Exhibit No.</i>	<i>Description</i>
52	Telegram to P. Curtis from Folkscar Traffic, 1 page.
53	Comparison of Certain Cargoes Assessed for Mechanization Fund Purposes on a Measurement Ton Basis, dated April 25, 1963, 1 page.
53A	Method of Computing "Measurement Tonnage in a Single Weight Ton", dated April 25, 1963, 1 page.
54	ILWU Redraft of PMA Document Dated 11/19/57, dated November 27, 1957, 2 pages.
55	Letter from Pacific Maritime Association to Members, dated March 16, 1961, 2 pages, with 5 attachments.
56	Letter from Pacific Maritime Association to Members, dated December 14, 1961, 1 page.
57	Letter from Pacific Maritime Association to Members, dated December 20, 1961, 1 page.
58	Telegram to Automar, Inc., from Volkswagen of America, Inc., 2 pages.

**Complaint**

(Filed January 29, 1963)

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

---

[SAME TITLE]

---

**I**

COMES NOW the complainant above named, pursuant to section 22 of the Shipping Act, 1916. (46 U.S.C., sec. 821) and for its complaint against respondents alleges as follows:

**II**

At all relevant times complainant was, and now is, a corporation organized and existing under the laws of the Federal Republic of Germany, engaging in that country in the manufacture of automobiles and also in the exportation of part of such automobiles to the United States through the ports of San Francisco and Los Angeles, among others. The address of its principal office is Wolfsburg, Germany.

**[2] III**

At all relevant times respondents Marine Terminals Corporation and Marine Terminals Corporation (of Los Angeles) were, and now are, corporations organized and existing under the laws of the State of Nevada, with principal offices in San Francisco and Long Beach, California, respectively. The address of the principal office of the former is 261 Stewart Street, San Francisco 5, California; and of the latter, 920 South Pico Avenue, Long Beach, California. Respondents are engaged in the business of



*Complaint*

furnishing terminal services and facilities, including stevedoring services, in connection with common carriers by water, and as such are subject to the provisions of the Shipping Act, 1916. At various times in the past respondents have provided terminal facilities and rendered terminal and stevedoring services to complainant in connection with the discharging of complainant's automobile cargoes at San Francisco and Los Angeles.

## IV

Complainant is informed and believes and therefore alleges that at some time on or after January 1, 1961, respondents and other persons, namely, Pacific Maritime Association, a nonprofit corporation organized under the laws of the State of California, and certain members thereof, conspired [3] and agreed or had an understanding or arrangement to impose upon complainant an extra charge for the said terminal and stevedoring services and facilities in the form of an assessment. This assessment is sought to be imposed in order to raise funds for the performance by respondents and the said other persons of the Supplemental Agreement of Mechanization and Modernization, which is described generally in the libel attached hereto as Exhibit A.

## V

The said agreement or understanding or arrangement (hereinafter referred to collectively as the "Agreement") to impose the extra charge for terminal and stevedoring services and facilities in the form of an assessment on complainant is subject to the provisions of section 15 of the Shipping Act, 1916 (46 U.S.C., sec. 814) as an agreement "fixing or regulating transportation rates \* \* \* giving or receiving special rates \* \* \* controlling, regulating, preventing, or destroying competition \* \* \* or \* \* \* pro-



*Complaint*

viding for an exclusive, preferential, or co-operative working arrangement." As such, the Agreement requires approval by the Federal Maritime Commission before it can be carried out lawfully. Since the Agreement has neither been filed with nor approved by the Commission, it is illegal and void and neither it nor [4] the assessment may be imposed upon complainant.

VI

Moreover, the Agreement is unjustly discriminating and unfair as between shippers and importers, operates to the detriment of the commerce of the United States, is contrary to the public interest and is in violation of sections 16 and 17 of the Shipping Act, 1916 (46 U.S.C., secs. 815 and 816) in that it imposes upon the automobile cargoes of complainant a disproportionately high share of the costs of the plan of the Supplemental Agreement of Mechanization and Modernization in connection with which the assessment is imposed, raising the cost of discharge of complainant's automobile cargoes by approximately twenty-two to thirty-two per cent as against an average increase in the cost of discharge of other cargo of only approximately two and one-half per cent. The Agreement, therefore, should not be approved by the Commission.

VII

For the reasons set forth in paragraph VI hereof, the assessment subjects complainant and its automobile cargoes to undue and unreasonable prejudice and disadvantage in violation of section 16 of the Shipping Act, 1916 (46 U.S.C., sec. 815).

[5] VIII

For the reasons set forth in paragraph VI hereof, the assessment comprises an unjust and unreasonable practice relating to and connected with the receiving, handling,

*Complaint*

storing and delivering of property, in violation of section 17 of the Shipping Act, 1916 (46 U.S.C., sec. 816).

## IX

Complainant has at all times maintained the unlawfulness of the assessment as presently sought to be imposed against it by respondents and the said other persons. However, following the filing by Pacific Maritime Association of a libel against respondents on August 14, 1962, respondents, by a petition to implead filed on September 13, 1962, in the United States District Court for the Northern District of California, Southern Division, sought and still seek to collect the said assessment from complainant, in violation of sections 15, 16 and 17 of the Shipping Act, 1916. On November 6, 1962, complainant moved before the said Court for a stay of the proceedings before it, pending a determination by the Commission of the questions of violation of sections 15, 16 and 17 of the Shipping Act, 1916, as matters within the initial and primary jurisdiction of the Federal Maritime Commission. The order granting this stay, [6] pursuant to which the instant complaint is now filed, was issued on November 29, 1962. It was subsequently amended by an order issued on December 11, 1962. Copies of the proceedings in the said Court are attached as exhibits hereto, and are designated: Libel (Exhibit A); Answer to Libel (Exhibit B); Petition to Implead Volkswagenwerk A.G. (Exhibit C); Answer of Complainant (Exhibit D); Motion for a Stay of Proceedings (Exhibit E); Memorandum in Support of Motion of Respondent Impleaded to Stay Proceedings of Complainant (Exhibit F); Libelant's Memorandum of Points and Authorities in Opposition to Motion for Stay (Exhibit G); Respondents' Memorandum in Opposition to Motion for Stay (Exhibit H); Order of United States District Court of November 29, 1962 (Exhibit I); Amendment of De-

*Complaint*

ember 11, 1962 to Order of United States District Court (Exhibit J); Stipulated Order Extending Time (Exhibit K).

X

WHEREFORE, complainant prays that respondents be required to answer the charges herein, and that after due hearing and investigation an order be made:

(1) Determining that the Agreement among respondents and the said other persons [7] which imposes an extra charge upon complainant for terminal and stevedoring services and facilities furnished with respect to its automobile cargoes falls within the purview of section 15 of the Shipping Act, 1916, and therefore must be approved by the Commission before it can be lawfully effectuated;

(2) Determining that the Agreement has not been filed with the Commission as provided in the said section 15 and has not been approved by the Commission;

(3) Determining that the Agreement should not be approved by the Commission because it violates the said section 15 in that it is unjustly discriminatory and unfair as between shippers and importers, operates to the detriment of the commerce of the United States and is contrary to the public interest;

(4) Determining that the Agreement should not be approved by the Commission because [8] it violates section 16 of the said Act by subjecting complainant's automobile cargoes to an undue or unreasonable prejudice or disadvantage;

(5) Determining that the Agreement should not be approved because it violates section 17 of the said Act by establishing regulations and practices

*Complaint*

which are not just and reasonable as required by that section;

(6) Determining that the Agreement is disapproved;

(7) Ordering respondents to cease and desist from seeking to impose or collect the assessment or extra charge referred to herein; and

(8) Making such other, further and different [9] order or orders as the Commission determines to be proper in the premises.

Dated at San Francisco, California, this                      day of  
January, 1963.

Respectfully submitted,

PETER CURTIS,  
An Authorized Representative  
of Complainant.

Attorneys for Complainant:

HERZFELD & RUBIN,  
WALTER HERZFELD,  
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New York 5, New York.

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S. J. MADDEN,  
225 Bush Street,  
San Francisco 4, California.

(Ex. A. Complaint 1)

18a

**Exhibit A, Annexed to Foregoing Complaint  
(Libel)**

[1] Edward D. Ransom  
Gary J. Torre  
Lillick, Geary, Wheat, Adams & Charles  
311 California Street  
San Francisco 4, California  
Telephone: GARfield 1-4600

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION  
No. 28599 in Admiralty

---

PACIFIC MARITIME ASSOCIATION, a non-profit corporation,  
Libelant,

v.

MARINE TERMINALS CORPORATION, a corporation; MARINE  
TERMINALS CORPORATION (OF LOS ANGELES), a corporation;  
ASSOCIATED-BANNING COMPANY, a corporation; CALIFORNIA  
STEVEDORE AND BALLAST COMPANY, a corporation; SEATTLE  
STEVEDORE Co., a corporation; and BRADY HAMILTON  
STEVEDORE Co., a corporation,

Respondents.

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**LIBEL IN PERSONAM**

TO THE HONORABLE, THE JUDGES OF THE  
ABOVE-ENTITLED COURT:

The libel of Pacific Maritime Association, a non-profit  
corporation, in behalf of itself and in behalf of its member



*Exhibit A*

companies, in a cause based on contract, civil and maritime, alleges:

I.

Libelant, Pacific Maritime Association (hereinafter referred to as "PMA") is now, and at all times herein mentioned was, a non-profit corporation, duly organized and existing under the laws [2] of the State of California, with its principal office in San Francisco, California. Libelant, as such non-profit corporation, is composed of members who are owners or operators of or agents for practically all American flag dry cargo vessels operated in the intercoastal, coastwise and offshore trades with Pacific Coast ports as a terminal or base of operations and of members who are employers of practically all workers engaged in longshore, terminal and related operations in the loading and discharging of dry cargo vessels in Pacific Coast ports. Libelant represents its members in collective bargaining and labor relations with labor unions who in turn represent, for collective bargaining, crew members employed aboard such American flag dry cargo vessels and employees engaged in such longshore, terminal and related operations.

II.

Respondent Marine Terminals Corporation is a corporation organized and existing under the laws of the State of Nevada, with a principal office in San Francisco, California.

Respondent Marine Terminals Corporation (of Los Angeles) is a corporation organized and existing under the laws of the State of Nevada, with a principal office in Long Beach, California.

Respondent Associated-Banning Company is a corporation organized and existing under the laws of the State of



*Exhibit A*

California, with a principal office in Wilmington, California.

Respondent California Stevedore and Ballast Company is a corporation organized and existing under the laws of the State of California, with a principal office in San Francisco, California.

Respondent Seattle Stevedore Co. is a corporation organized and existing under the laws of the State of Washington, with a principal office in Seattle, Washington.

Respondent Brady Hamilton Stevedore Co. is a corporation [3] organized and existing under the laws of the State of Oregon, with a principal office in Portland, Oregon.

Each of the respondents is engaged in the business of performing stevedoring and terminal services and related operations in loading and discharging ocean-going dry cargo vessels calling at various ports of the Pacific Coast of the United States. Each respondent is a member of PMA and is also an Employer as hereinafter designated.

III.

The International Longshoremen and Warehousemen's Union (hereinafter referred to as the "ILWU") is, for the purpose of this libel, the union and certified collective bargaining agent in California, Washington and Oregon for all longshoremen, marine clerks and persons with related classifications who are employed by members of PMA (hereinafter referred to as "Employees"). The ILWU, in behalf of said Employees, and PMA, in behalf of its members employing such Employees, are parties to the Pacific Coast Longshore Agreement, the Master Agreement for Clerks and Related Classifications, and various miscellaneous related labor agreements.

IV.

The ILWU, on behalf of the aforesaid Employees, and PMA, representing its member companies, including each

*Exhibit A*

of respondents, entered into as of January 1, 1961 a Supplemental Agreement on Mechanization and Modernization, which agreement is hereinafter broadly referred to as the "Agreement." This Agreement together with appendices, schedules, trust indentures and trust implementing the Agreement, hereinafter broadly referred to as the "Plan," will be submitted in evidence in this proceeding.

The broad purpose of the Plan is to encourage utilization of modern methods of cargo carriage and handling, including elimination [4] of restrictive work practices and permitting containerization of cargo, so as to permit labor savings and ultimate economy in steamship operations. In order to minimize the hardships which Employees would otherwise suffer as a consequence of the substantial reduction of work opportunities, the Plan was established to provide additional compensation to longshoremen, marine clerks and related classifications (Employees) for their work in loading and discharging of ships and operations related thereto. Such compensation under the Plan is to be paid into a Mechanization Fund collected by PMA and distributed by PMA to three separate trusts, each of which will hold the same for the payment of various benefits to the Employees.

## V.

Under the Agreement and the Plan the compensation for the Employees is paid into the Mechanization Fund through contributions by the stevedore and terminal companies (hereinafter sometimes called "Employers"), who are the direct employers of longshoremen, marine clerks and related classifications in Washington, Oregon and California (Employees). The total annual contributions of all such Employers to the Mechanization Fund for a period of five and one-half years is specified in the Agreement, but the power of fixing the method by which the amount of assessments of such contributions from such direct Em-

*Exhibit A*

employers is determined is reserved to PMA and determined by agreement between PMA members pursuant to the By-Laws of PMA. The source from which such direct Employers of such Employees obtain their respective contributions is left to such Employers to determine.

By duly adopted Resolutions of the Board of Directors binding upon all members thereof, including respondents and each of them, the method by which the PMA assesses the contribution of such direct Employers to the Mechanization Fund for work of stevedoring, terminal [5] and related activities in the loading and discharging of vessels has been determined. Pursuant to such Resolutions of the Board of Directors of PMA assessments have been made.

VI.

By Article III of the aforesaid Agreement libelant is appointed the collecting agent in accumulating the contributions from the direct Employers to the Mechanization Fund. Libelant by said Agreement is further authorized and empowered to take all reasonable action necessary to compel Employers to comply with their obligations under the Agreement, and is further empowered and authorized to commence and pursue such legal remedies as may be appropriate to enforce contributions.

VII.

Respondents, and each of them, are such direct Employers of such Employees, and, accordingly, under the said Agreement and pursuant to such Resolutions each respondent is obligated to pay such additional compensation to such Employees through contributions to libelant, PMA, as vessels are serviced by each respondent, and each of them is accordingly assessed therefor by PMA.

*Exhibit A*

## VIII.

Respondents, and each of them, have been assessed by PMA, as aforesaid, and each has paid contributions to the Mechanization Fund in connection with vessels for which each has performed stevedore and/or terminal and/or related services. However, although assessments have been made by libelant against respondents, and each of them, for other such contributions due, respondents, and each of them, have failed to make such other contributions to the Mechanization Fund, and following demand by PMA has each without lawful reason refused and continues to refuse to do so.

## [6] IX.

Libelant has performed all conditions required of it under the aforesaid Plan and its By-Laws and has demanded of respondents, and each of them, that payment be made of the respective delinquent contributions to the Mechanization Fund. Respondents, and each of them, have, nevertheless, failed and refused to make such contributions and continue to fail and refuse to do so. There is now due, owing and unpaid from each respondent to libelant, PMA, as collection agent for said Mechanization Fund, the sum set opposite the name of each respondent as follows, no part of which has been paid:

Marine Terminals Corporation	\$30,687.43
Marine Terminals Corporation (of Los Angeles)	36,316.84
Associated-Banning Company	3,740.31
California Stevedore and Ballast Company	2,170.00
Seattle Stevedore Co.	6,240.87
Brady Hamilton Stevedore Co.	6,551.41
	<hr/>
	\$85,706.86

*Exhibit A*

X.

Obligations of respondents to make such contributions as aforesaid accrue, and will continue to accrue, as each respondent services vessels as hereinabove described. Although each respondent has paid a part of such contributions and libelant is informed and believes will continue to do so as the same accrues, libelant is informed and believes that each respondent will continue to refuse to pay part of such contributions as the same accrue. The amount set out in Article IX above is the current delinquency of each. Libelant, therefore, prays leave to amend this libel at time of trial of this case to insert the amount of such delinquency then current as to each respondent.

XI.

All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

[7] WHEREFORE, libelant prays that process in due form of law according to the practices of this Court in cases of admiralty may issue against each respondent. That each respondent be cited to appear and answer all and singular the matters aforesaid, and that this Court may be pleased to decree the payment of libelant's claim as to each respondent in the amounts aforesaid, together with interest and costs, and that libelant may have such other and further relief as to the Court may seem proper.

Dated: August 13th, 1962.

EDWARD D. RANSOM,  
GARY J. TORRE,  
LILLICK, GEARY, WHEAT, ADAMS & CHARLES,  
Proctors for Libelant, Pacific  
Maritime Association.



**Exhibit B, Annexed to Foregoing Complaint  
(Answer to Libel)**

[1] McCUTCHEN, DOYLE, BROWN & ENERSEN  
RUSSELL A. MACKEY  
BRYANT K. ZIMMERMAN  
601 California Street  
San Francisco 8, California  
Telephone: YUkon 1-3400  
Proctors for respondents  
Marine Terminals Corporation and  
Marine Terminals Corporation  
(of Los Angeles)

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

---

[SAME TITLE]

---

ANSWER TO LIBEL

Come now respondents Marine Terminals Corporation, a corporation and Marine Terminals Corporation (of Los Angeles) a corporation, and answering the libel herein admit, deny and allege as follows:

I.

Admit the allegations of Article I.

II.

Admit the allegations of Article II, so far as applicable to these respondents.

(Ex. B. Complaint 2)

26a

*Exhibit B*

[2] III.

Admit the allegations of Article III.

IV.

Admit the allegations of Article IV.

V.

Admit the factual allegations of Article V and allege that the assessments for the benefit of the Mechanization Fund are made on the understanding that the employer can lawfully collect the amount of the assessment from the carrier or cargo owner for whom the employer performs the stevedore and terminal services.

VI.

Admit the allegations of Article VI.

VII.

Admit the factual allegations of Article VII.

VIII.

Admit that they have paid contributions to the Mechanization Fund in connection with services relating to all vessels other than certain vessels carrying automobiles, particularly vessels chartered to Volkswagenwerk A.G., which contends that the Supplemental Agreement on Mechanization and Modernization, and assessments thereunder are unlawful and that neither libellant nor respondents can lawfully collect assessments pursuant to said Agreement.

IX.

Admit that they have not paid assessments in those cases where the carrier or cargo owner have contended that the assessments are unlawful.

27a

*Exhibit B*

X.

No answer required.

XI.

Admit the maritime jurisdiction of this court.

[3] WHEREFORE, respondents pray that the court determine the lawfulness of the said Supplemental Agreement on Mechanization and Modernization and the assessments thereunder and give such relief as to the court may seem proper.

Dated: September , 1962.

.....  
McCUTCHEN, DOYLE, BROWN & ENERSON

.....  
RUSSELL A. MACKEY

.....  
BRYANT K. ZIMMERMAN

**Exhibit C, Annexed to Foregoing Complaint**

**(Petition to Implead Volkswagenwerk A.G.)**

[1] McCUTCHEN, DOYLE, BROWN & ENERSEN

RUSSELL A. MACKEY

BRYANT K. ZIMMERMAN

601 California Street

San Francisco 8, California

Telephone: YUkon 1-3400

Proctors for respondents and petitioners

Marine Terminals Corporation and Marine  
Terminals Corporations (of Los Angeles)

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

No. \_\_\_\_\_ in Admiralty

—o—

PACIFIC MARITIME ASSOCIATION; a non-profit corporation,  
Libelant,

vs.

MARINE TERMINALS CORPORATION, a corporation; MARINE  
TERMINALS CORPORATION (OF LOS ANGELES), a corporation;  
ASSOCIATED-BANNING COMPANY, a corporation; CALIFORNIA  
STEVEDORE AND BALLAST COMPANY, a corporation; SEATTLE  
STEVEDORE Co., a corporation; and BRADY HAMILTON  
STEVEDORE Co., a corporation,

Respondents.

MARINE TERMINALS CORPORATION, a corporation; and MARINE  
TERMINALS CORPORATION (OF LOS ANGELES), a corporation,  
Petitioners,

vs.

VOLKSWAGENWERK A.G., a corporation,  
Respondent impleaded.

—o—

*Exhibit C*

The petition of respondents and petitioners Marine Terminals [2] Corporation, a corporation and Marine Terminals Corporation (of Los Angeles), a corporation, against Volkswagenwerk A.G., in a cause of contract civil and maritime, allege as follows:

I.

That at all times herein mentioned petitioners Marine Terminals Corporation and Marine Terminals Corporation (of Los Angeles), were and are corporations organized and existing under the laws of the State of Nevada, with principal offices in San Francisco and Long Beach, respectively.

II.

At all times herein mentioned Volkswagenwerk A.G. was and now is a corporation organized and existing under the laws of Germany with its principal office at Wolfsburg, Germany.

III.

At various times subsequent to January 1, 1961, petitioners have rendered stevedore and terminal services to Volkswagenwerk A.G. in connection with various vessels discharging automobiles at San Francisco and Los Angeles. On account of said services, Pacific Maritime Association has demanded payment of certain amounts as assessments under the Supplemental Agreement on Mechanization and Modernization. Said assessments now amount to approximately \$75,000. Attached hereto is a copy of the Libel filed by Pacific Maritime Association to collect said assessments.

Volkswagenwerk A.G. has agreed to pay each of said assessments as part of petitioners' compensation for said stevedore and terminal services, but has failed and refused to make payments in accordance with said agreement, on the ground that the said Supplemental Agreement on



*Exhibit C*

Mechanization and Modernization and assessments thereunder are unlawful.

IV.

[3] All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

WHEREFORE, petitioners pray that process in due form of law according to the practice of this court in cases of admiralty and maritime jurisdiction may issue against Volkswagenwerk A.G., that said respondent impleaded be cited to appear and answer all of the matters aforesaid and that this court may be pleased to determine the lawfulness of the said Supplemental Agreement on Mechanization and Modernization and assessments thereunder and to decree that said respondent impleaded pay any amounts which petitioners may be required to pay to libellant Pacific Maritime Association, together with interest and costs, and that petitioners may have such other and further relief as to the court may seem proper.

Dated: September , 1962.

.....  
McGUTCHEN, DOYLE, BROWN & ENERSEN

.....  
RUSSELL A. MACKEY

.....  
BRYANT K. ZIMMERMAN

**Exhibit D, Annexed to Foregoing Complaint**

**(Answer of Complainant)**

[1] GRAHAM JAMES & ROLPH  
BORIS H. LAKUSTA  
ALEXANDER D. CALHOUN, JR.  
310 Sansome Street  
San Francisco 4, California  
YUkon 6-2171

HERZFELD & RUBIN  
WALTER HERZFELD  
40 Wall Street  
New York 5, New York

Proctors for Respondent-Impleaded,  
Volkswagenwerk Aktiengesellschaft

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

---

[SAME TITLES]

---

[2] COMES NOW VOLKSWAGENWERK AKTIENGESELLSCHAFT, named herein as Volkswagenwerk A.G., and in answer to the libel and impleading petition on file herein admits, denies and alleges as follows:

ANSWER TO ALLEGATIONS OF LIBEL

I.

Answering Paragraph I of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

*Exhibit D*

II.

Answering Paragraph II of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

III.

Answering Paragraph III of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

IV.

Answering Paragraph IV of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

V.

Answering Paragraph V of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

VI.

Answering Paragraph VI of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

VII.

Answering Paragraph VII of the libel, respondent impleaded [3] is without knowledge or information sufficient to form a belief as to the averments thereof.

VIII.

Answering Paragraph VIII of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

*Exhibit D*

IX.

Answering Paragraph IX of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

X.

Answering Paragraph X of the libel, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

XI.

Answering Paragraph XI of the libel, respondent impleaded denies the jurisdiction of this Court to determine the validity of the claim of libelant against respondents-petitioners until the validity of the contributions sought to be collected from respondents-petitioners to the extent that they may affect respondent impleaded is determined by the Federal Maritime Commission pursuant to the Shipping Act, 1916, as amended, 46 U.S.C. 801, et seq. (1961).

ANSWER TO ALLEGATIONS OF PETITION TO IMPLEAD

I.

Answering Paragraph I of the impleading petition, respondent impleaded is without knowledge or information sufficient to form a belief as to the averments thereof.

II.

Answering Paragraph II of the impleading petition, respondent impleaded admits the allegations thereof, except that [4] the correct corporate name of respondent impleaded is Volkswagenwerk Aktiengesellschaft.

*Exhibit D*

III.

Answering Paragraph III of the impleading petition, respondent impleaded admits respondents-petitioners have rendered stevedoring and terminal services to respondent impleaded in connection with various vessels discharging automobiles in San Francisco and Los Angeles; admits that the Pacific Maritime Association has demanded of respondents-petitioners and respondents-petitioners have demanded of respondent impleaded payment of certain amounts as assessments under the said Supplemental Agreement on Mechanization and Modernization; admits that said assessments do now amount to approximately \$75,000.00; admits that respondent impleaded has failed and refused to pay such assessments to respondents-petitioners on the ground they are unlawful; and, except as herein expressly admitted, denies each and every, all and singular, the allegations thereof.

IV.

Answering Paragraph IV of the impleading petition, respondent impleaded denies the jurisdiction of this Court to determine the validity of the claim of respondents-petitioners against respondent impleaded until the validity of the assessments sought to be imposed against respondent impleaded is determined by the Federal Maritime Commission pursuant to the Shipping Act, 1916, as amended, 46 U.S.C. 801, et seq. (1961).

FIRST AFFIRMATIVE DEFENSE TO LIBEL AND  
PETITION TO IMPEAD

Libel and petition to implead fail to state a claim upon which relief can be granted.



*Exhibit D*

SECOND AFFIRMATIVE DEFENSE TO LIBEL AND  
PETITION TO IMPEAD

I.

Respondent impleaded does not oppose, indeed supports, [5] the objectives of libelant's Plan for the purposes of encouraging introduction of modern methods of cargo carriage and handling, including elimination of restrictive work practices and permitting containerization of cargo as alleged in Article IV of the libel. Moreover, respondent impleaded would be willing to be charged with lawful, non-discriminatory, just and reasonable contributions to the costs of the said Plan.

II.

Respondent impleaded is informed and believes and on the basis of such information and belief alleges that respondents-petitioners and other persons agreed and conspired to impose upon respondents-petitioners the contributions referred to in Paragraph IX of the libel, and upon respondent impleaded the assessments referred to in Paragraph III of the impleading petition as a charge for respondents-petitioners' stevedoring and terminal services.

III.

Respondents-petitioners and the other persons referred to in Paragraph II, above, are persons subject to the Shipping Act, 1916, as amended, 46 U.S.C. 801, et seq. (1961).

IV.

Respondents-petitioners and the other persons referred to in Paragraph II, above, are required by Section 15 of the said Act to file with the Federal Maritime Commission for approval all agreements controlling, regulating, pre-

*Exhibit D*

venting, or destroying competition, or in any manner providing for an exclusive, preferential, or co-operative working arrangement, which includes the fixing of charges for services.

V.

The agreement and conspiracy to impose upon respondents-petitioners the contributions and upon respondent impleaded the assessments referred to in Paragraph II, above, is an agreement [6] requiring Section 15 approval by the Federal Maritime Commission; the said agreement has neither been filed with nor approved by the Commission and is therefore illegal and void and cannot lawfully be carried out.

VI.

The determination of whether respondents-petitioners and the other persons referred to in Paragraph II, above, have entered into an agreement subject to Section 15 of the Shipping Act, 1916, as amended, 46 U.S.C. 801, et seq. (1961), as hereinabove alleged, is a matter within the primary jurisdiction of the Federal Maritime Commission, and, accordingly, the issue of the validity of the contributions and assessments under Section 15 should be referred to the Commission and this libel and petition to implead dismissed or stayed until the decision of the Commission.

THIRD AFFIRMATIVE DEFENSE TO LIBEL AND  
PETITION TO IMPLEAD

I.

Respondent impleaded refers to Paragraphs I, II and III of its Second Affirmative Defense and incorporates the same herein by such reference.

*Exhibit D*

II.

Respondents-petitioners and the other persons referred to in Paragraph II of the Second Affirmative Defense of respondent impleaded, and each of them, are subjecting the automobile cargoes of respondent impleaded to undue or unreasonable prejudice or disadvantage in violation of Section 16 of the Shipping Act, 1916, as amended, 46 U.S.C. 815 (1961), by imposing upon respondent impleaded the said assessments as a charge for terminal and stevedoring services rendered in connection with this particular description of cargo, to the extent that respondent impleaded's automobile cargoes are thereby burdened with a disproportionate [7] share of the costs of the Plan referred to in Article IV of the libel as compared with other cargoes.

III.

The determination of whether the said assessments are in violation of Section 16 as hereinabove alleged is a matter within the primary jurisdiction of the Federal Maritime Commission and, accordingly, the issue of the validity of the assessments under Section 16 should be referred to the Commission and the libel and petition to implead dismissed or stayed until the decision of the Commission.

FOURTH AFFIRMATIVE DEFENSE TO LIBEL AND  
PETITION TO IMPEALD

I.

Respondent impleaded refers to Paragraphs I, II and III of its Second Affirmative Defense and incorporates the same herein by such reference.

II.

The practices of respondents-petitioners and the other persons referred to in the Second Affirmative Defense of

*Exhibit D*

respondent impleaded, and each of them, in attempting to impose upon respondent impleaded the said assessments as a charge for terminal stevedoring services are unjust and unreasonable practices in violation of Section 17 of the Shipping Act, 1916, as amended, 46 U.S.C. 816 (1961), to the extent that respondent impleaded's automobile cargoes are thereby burdened with a disproportionate share of the costs of the Plan referred to in Article IV of the libel as compared with other cargoes.

[8] III.

The determination of whether the said practices are in violation of Section 17 as hereinabove alleged is a matter within the primary jurisdiction of the Federal Maritime Commission and, accordingly, the issue of the validity of the practices under Section 17 should be referred to the Commission and the libel and petition to implead dismissed or stayed until the decision of the Commission.

FIFTH AFFIRMATIVE DEFENSE TO LIBEL AND  
PETITION TO IMPEAD.

I.

Respondent impleaded refers to Paragraphs I, II and III of its Second Affirmative Defense and incorporates the same herein by such reference.

II.

By reason of the foregoing agreement and conspiracy, respondents-petitioners and the other persons referred to in the Second Affirmative Defense of respondent impleaded seek to impose upon respondent impleaded a fixed charge in the form of an assessment in restraint of trade and commerce with foreign nations in violation of Section 1 of the Sherman Anti-Trust Act, 15 U. S. C. Section 1.

*Exhibit D*

WHEREFORE, respondent impleaded prays that respondents-petitioners take nothing by their petition to implead and that respondent impleaded have its costs herein; and that respondent impleaded have such other and further relief as the Court may deem proper.

[9] Dated at San Francisco, California, this 31st day of October, 1962.

GRAHAM JAMES & ROLPH

By ALEXANDER D. CALHOUN  
Proctors for Respondent  
Impleaded, Volkswagenwerk  
Aktiengesellschaft

HERZFELD & RUBIN  
WALTER HERZFELD  
*of Counsel.*



(Answer 1-2)

40a

## **Answer to Complaint**

(Filed February 18, 1963)

### **[1] BEFORE THE FEDERAL MARITIME COMMISSION**

---

**[SAME TITLE]**

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Respondents Marine Terminals Corporation and Marine Terminal Corporation (of Los Angeles) answer the complaint herein as follows:

#### **I**

Deny that complainant is entitled to bring this proceeding under Section 22 of the Shipping Act, 1916.

#### **II**

Admit the allegations of Paragraph II.

#### **III**

Admit that respondents were and are Nevada corporations with principal offices in San Francisco and Long Beach, as alleged; admit that they are in the business of furnishing terminal and stevedoring services; admit that such services are, in some cases, [2] furnished in connection with common carriers by water; admit that such services have been provided to complainant in connection with discharging its automobile cargoes at San Francisco and Los Angeles, but deny that such services were rendered in connection with common carriers by water; and except as herein admitted or alleged, deny the allegations of Paragraph III; and further allege that the Commission

41a.

*Answer to Complaint*

has no jurisdiction over these respondents, which are not common carriers, do not furnish terminal facilities and are not "other persons subject to" the Shipping Act, 1916.

IV

Admit that they are members of Pacific Maritime Association, a non-profit corporation organized under the laws of the State of California; admit that they have included as part of their charges for services the amounts of assessments under the Supplemental Agreement on Mechanization and Modernization; and except as herein admitted, deny the allegations of Paragraph IV.

V

Deny the allegations of Paragraph V.

VI

Deny the allegations of Paragraph VI.

VII

Deny the allegations of Paragraph VII.

VIII

Deny the allegations of Paragraph VIII.

[3] IX

Admit that complainant has maintained that assessments under the Supplemental Agreement on Mechanization and Modernization are unlawful; admit that they impleaded complainant in the suit in the United States District Court commenced by Pacific Maritime Association; admit that they have sought and still seek to collect from complainant the assessments pursuant to said agree-

(Answer 3)

42a

*Answer to Complaint*

ment; admit that complainant moved for and obtained a stay of proceedings in the United States District Court; admit the filing of the documents attached to the complaint as Exhibits A-K; and except as herein admitted, deny the allegations of Paragraph IX.

WHEREFORE, respondents pray that the Commission determine that it has no jurisdiction with respect to the matters alleged in the complaint, that the complaint be dismissed, and that the respondents have such other and further relief as may be appropriate.

Dated: February 15, 1963.

.....  
McCutchen, Doyle, Brown & Enersen  
.....

BRYANT K. ZIMMERMAN  
Attorneys for Respondents Marine Terminals  
Corporation and Marine Terminals Corpo-  
ration (of Los Angeles)

**Petition of Pacific Maritime Association to Intervene  
in Opposition to the Complaint**

(Filed February 21, 1963)

[1] BEFORE THE

FEDERAL MARITIME COMMISSION

---

[SAME TITLE]

---

Pacific Maritime Association (PMA) is a non-profit association existing under the laws of the State of California with its principal office in San Francisco, California, formed for the primary purpose of representing its members in collective bargaining and labor relations with labor unions who in turn represent for collective bargaining crew members employed aboard American-flag dry cargo vessels and employees engaged in longshore, terminal and related operations.

Rule 5(n) of the Commission's Rules of Practice and Procedure provide that a petition for intervention shall set forth the interest of petitioner, the grounds of the proposed intervention and the position of the petitioner in the proceeding. This petition shall proceed to do so.

**[2] *Petitioner's Substantial Interest and Grounds  
for Intervention***

Pacific Maritime Association's substantial interest in the captioned complaint proceedings and grounds for intervention include the following:

1. The proceeding could possibly affect the entire \$29,000,000 Mechanization and Modernization program negotiated between the PMA and the longshore union.

*Petition of Pacific Maritime Association to Intervene  
in Opposition to the Complaint*

2. The Complaint could possibly result in the Federal Maritime Commission for the first time in its history assuming jurisdiction in the field of maritime collective bargaining, which petitioner firmly believes is beyond the jurisdiction of the Commission and which would adversely affect the industry by upsetting traditional patterns of collective bargaining.

3. It is alleged in the Complaint that the named respondents and PMA and certain members thereof have entered into a conspiracy, agreement or understanding to impose charges upon complainants. As direct charges are thus made against petitioner, petitioner should be permitted to participate and have the opportunity to prove such charges false.

4. The Complaint alleges that petitioner, PMA, and respondents have entered into an unfiled and unapproved Section 15 agreement and thereby violated the Shipping Act, 1916. Petitioner through intervention should be afforded the right to contest such allegations.

5. The Complaint alleges agreements between petitioner, its members and respondents resulting in violations of Sections [3] 16 and 17 of the Shipping Act, 1916, and petitioner through intervention should be afforded the right to prove such charges false.

6. Petitioner, PMA, commenced the litigation in the District Court of the United States for the Northern District of California, Southern Division, by a libel against respondents here for collection of contributions due to the aforesaid Fund. That action has been stayed in order to permit complainants to proceed with this complaint proceeding. Petitioner's rights to collect sums due are, accordingly, stayed pending this litigation and petitioner



*Petition of Pacific Maritime Association to Intervene  
in Opposition to the Complaint*

should be entitled to participate in this complaint proceeding in order to protect its rights in the District Court and to protect itself against undue delay in disposition of this proceeding.

*Background of Complaint Action*

The Complaint seeks to invoke the jurisdiction of the Federal Maritime Commission with respect to collective bargaining negotiations and agreements as to which the Commission has no authority, has never heretofore and should not now inject itself.

The PMA, representing maritime employers, and the International Longshoremen & Warehousemen's Union (ILWU), representing employees, bargain with each other with respect to wages, hours, working conditions and fringe benefits, including vacation, welfare and pension plans. In such negotiations the Union contended that containerization, palletization and other modern [4] methods of cargo handling which had recently been introduced and were being introduced resulted in a reduction of work of longshore and marine clerk employees. In order to satisfy the Union and permit the mechanization and modernization program to go forward, there was negotiated over a period of many months a complex program which would result in a \$29,000,000 fund accumulated during a period of five years for the benefit of such workers. This fund is entitled the "PMA-ILWU Mechanization and Modernization Fund" (the Fund). The agreement to provide such Fund was negotiated and entered into between PMA on behalf of its members, and the ILWU on behalf of its members, in the same way that wage raises, vacation allowances and other fringe benefits are negotiated.

The methods by which the PMA would raise such funds was the subject of long and intensive study. It was finally determined by agreement between the members of the PMA

*Petition of Pacific Maritime Association to Intervene  
in Opposition to the Complaint*

that the contributions making up the Fund would be made by the stevedoring companies, who are the direct employers of longshore labor, on the basis of 27½¢ per ton, weight or measurement, handled by such stevedoring companies and would be contributed by the direct employers of marine clerks on a manhour basis (historic distinctions relating to bulk and certain coastwise lumber cargoes were of necessity recognized and a different rate applied). There is not and never has been any agreement between the PMA or anyone else or between the members of PMA as to the source from which the members who are such direct employers would derive the funds with which to make such contributions. Whether such [5] employers would absorb such contributions or would bill and collect all or any part to their customers, is entirely a matter for such direct employers.

Several members of PMA became delinquent in their contributions and in order to collect such delinquencies PMA brought a libel in admiralty in the United States District Court against respondents Marine Terminals Corporation and Marine Terminals Corporation (of Los Angeles) and others. Respondents answered stating in effect they considered such contributions were valid and were due and owing by them but they had endeavored to obtain their contributions to the Fund by charging the amount thereof against their customers and that one such customers, Volkswagenwerk Aktiengesellschaft, complainant in this proceeding, had not paid and had contended such charges against them were in violation of the Shipping Act, 1916. Respondents therefore impleaded complainant Volkswagenwerk, who moved for and obtained the stay order previously referred to. Both respondents in the proceeding and petitioner, PMA, contested the motion for stay on the grounds that the matters alleged are not within the jurisdiction of the FMC. It should be noted that the order of

*Petition of Pacific Maritime Association to Intervene  
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the United States District Court (Exhibit I to the Complaint) is based primarily on the grounds that it is up to the Federal Maritime Commission itself rather than the District Court to determine whether it has jurisdiction over the matters claimed by complainant.

[6] *Position of Petitioner*

1. The subject matter of the Complaint is outside the jurisdiction of the Federal Maritime Commission. As appears from the foregoing sketch of the background of the proceeding, the Complaint could involve the FMC in maritime labor relations and collective bargaining. The charges which respondents have assessed against complainant are in fact no different from charges which could result from a wage increase, change in authorized union holidays, extension of vacation periods, welfare funds, or any other increased costs which a stevedore company might add to its bills to its customers as result of collective bargaining between the employers and unions. This is a subject over which the FMC is not granted jurisdiction by Congress and is, we believe, a subject as to which the FMC would not presume to undertake to regulate.

2. Petitioner states positively and without equivocation in this verified petition that there is not and never has been any agreement, understanding or arrangement between respondents and petitioner or between any direct employers of the longshore and marine clerk labor and PMA and/or between any members thereof to impose upon complainant or upon the automobile cargoes of complainant any charge or assessment whatever, whether relating to the contributions which the direct employers make into the Mechanization and Modernization Fund or otherwise. In view of petitioner's positive denial that any such agreement or understanding exists, any question as to whether

*Petition of Pacific Maritime Association to Intervene  
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if such an agreement did exist it would be subject to the jurisdiction of [7] the Commission under Section 15 is moot, but petitioner's further position, as an academic matter, is that such an agreement would not be within Section 15.

The agreements relating to the Mechanization & Modernization Fund which do exist, namely, the agreement between the PMA and the ILWU, to establish the Fund, and the intra-association agreement between its members for contributions to the Fund, are so clearly outside Section 15 considerations as to make discussion thereof absurd, nor are there any allegations of the Complaint with respect to such agreements.

3. The Federal Maritime Commission through its staff has investigated and resolved the contention of a Section 15 agreement apparently to its satisfaction. By letter of September 28, 1961, Mr. Stigler, then Chief, Office of Regulations, Federal Maritime Commission, made inquiry concerning the Mechanization & Modernization Fund. A copy of that letter is attached as Exhibit A. The inquiry was subsequently followed by a letter of Mr. Leroy Fuller, Director, Bureau of Foreign Regulations. At the time of the original inquiry the plan was still in its formative stage. The Commission's inquiries were answered in full by letter of December 14, 1961. Copy attached hereto as Exhibit B. No further communication was received from the Commission concerning the matter.

4. The allegations of the Complaint and the prayer of the Complaint charging respondents with alleged violations of Sections 16 and 17 of the Shipping Act, 1916, are based upon [8] the alleged agreement between respondents and PMA and its members to assess charges against complainant allegedly disproportionate to charges assessed against other cargo resulting in a claim of unjust dis-



*Petition of Pacific Maritime Association to Intervene  
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crimination under Section 16 and unreasonable practice under Section 17. Petitioner reiterates its denial that any such agreement exists. The method of allocation by PMA to obtain contributions to the Fund, including the contributions of respondents here, is in fact not challenged by the Complaint and is, in any event, outside the jurisdiction of the Commission. Petitioner alleges, nevertheless, that the method of allocation of contributions adopted after months of study was designed to and does in fact treat all carriers and cargo alike. It is in fact the most feasible plan which could be devised to avoid discriminatory treatment. The method by which the members of PMA pass on, if at all, such additional expense is, as previously stated, no concern of petitioner.

WHEREFORE, petitioner prays:

1. That its Petition to Intervene be granted.
2. That the Commission determine that it has no jurisdiction with respect to the matters set forth in the Complaint.
3. That the Complaint be dismissed.

Dated at San Francisco, California, February 18, 1963.

PACIFIC MARITIME ASSOCIATION,  
Petitioner

By J. Paul St. Sure  
J. PAUL ST. SURE  
President

Edward D. Ransom  
EDWARD D. RANSOM  
GARY J. TORRE  
Gary J. Torre

Lillick, Geary, Wheat, Adams & Charles  
LILLICK, GEARY, WHEAT, ADAMS & CHARLES  
Attorneys for Petitioner



**Exhibit A, Annexed to Foregoing Petition**

[1] FEDERAL MARITIME COMMISSION  
Washington 25, D. C.

In reply refer to:  
Li7-3(26):079  
September 28, 1961

RECEIVED  
Oct. 2, 1961  
Pacific Maritime Association

*Air Mail*  
Pacific Maritime Association  
16 California Street  
San Francisco, California

Gentlemen:

It is our understanding that the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union have entered upon an arrangement whereby the Pacific Maritime Association members have agreed to provide approximately \$5,000,000 a year for five years in the establishment of a modernization and improvement fund for the benefit of above-mentioned union.

It is further our understanding that the method used to financially provide for the fund is by *assessment* of an arbitrary of 27½¢ per ton weight or measurement *against all cargo* discharged at west coast terminals. Please inform this Office of the manner in which this assessment is billed, i.e., against whom is the assessment made, what is it called, and how is it brought to the attention of the person paying it. Further please let us know whether this assessment is published in any individual common carrier, conference, or terminal tariffs.

51a

*Exhibit A*

We presume that the 27½¢ charge was arrived at by agreement among all of the members of the Pacific Maritime Association. Such agreement to fix a rate appears to be cognizable by section 15 of the Shipping Act, 1916. It is, therefore, requested that the Pacific Maritime Association file with this Commission a true copy, or, if oral, a true and complete memorandum of the agreement wherein its members by cooperative arrangement agreed to the assessment of the rate as noted above.

Additionally, we request that you provide this Office with a copy of the contract between the International Longshoremen's and Warehousemen's Union and Pacific Maritime Association for the current year, bylaws of the Pacific Maritime Association, membership record of the Pacific Maritime Association, and a copy or memorandum of the Pacific Maritime Association's authorization to its officials to negotiate with the International Longshoremen's and Warehousemen's Union.

You may wish to have your attorney provide us with his opinion regarding the agreement herein under discussion.

[2] Upon receipt of the referred to agreement, it will be examined with respect to compliance with said Section 15, copy of which is enclosed.

Sincerely yours,

WILLIAM A. STIGLER  
William A. Stigler  
Chief, Office of Regulations

Enclosure

**Exhibit B, Annexed to Foregoing Petition**

**[1] (Letterhead of)**

**LILLYCK, GEARY, WHEAT, ADAMS & CHARLES**  
**Attorneys at Law**  
**San Francisco 4, California**

**December 14, 1961**

**Mr. Leroy F. Fuller**  
**Director, Bureau of Foreign Relations**  
**Federal Maritime Commission**  
**Washington 25, D. C.**

**Re: PMA Mechanization Plan**  
**Your Ref.: L17-3(26) :30**

**Dear Mr. Fuller:**

The procedures with respect to the PMA-ILWU Mechanization Fund have been sufficiently determined to permit us now to reply fully to Mr. Stigler's letter of September 28, 1961 addressed to the Pacific Maritime Association. We, as counsel for PMA, have been intimately acquainted with the mechanization plan since its inception and PMA has, accordingly, referred your inquiry to us.

We believe the information which you have apparently received concerning this program has necessarily led to a misunderstanding of its basic concepts. From your letter it would appear that it is your understanding there will be a direct assessment, of 27½¢ per ton, weight or measurement, against shippers or consignees of cargo in the nature of a tariff item concerning which there is some understanding or agreement between carriers. If this is your understanding, you have been misinformed.

The Pacific Maritime Association (PMA) is an association comprised of employers who designate it to represent

*Exhibit B*

them for the purpose of collective bargaining with various maritime unions, including the International Warehousemen & Longshoremen's Union (ILWU). The PMA, representing the employers, and the ILWU, representing employees, bargain with respect to wages, hours, working conditions and fringe benefits, including vacations, welfare and pension plans for the benefit of longshoremen and marine clerks. The mechanization and modernization fund to be established for longshoremen and marine clerks is but one of many fringe benefits that have been negotiated or are being negotiated by the PMA and ILWU.

[2] The plan in question is complex. In essence it is that over a period of five and one-half years there will be contributed to the fund by the employers a total of \$29,000,000 for the employees' benefit. Since a minor portion of these employees are in the category of marine clerks, the stevedore companies, who are the direct employers of the longshoremen, will be contributing into the fund at a ratio of about 8 to 1 in relation to terminal companies, who are the direct employers of the marine clerks.

In the initial planning the fund was to be raised by the direct employers of the employee-beneficiaries on a tonnage basis, it being considered that the goal would be reached by payment into the fund of a total of 27½¢ per ton of general cargo and a lesser rate for bulk cargoes. This system has been revised, so that employers of marine clerks will contribute on a manhour basis and by employers of longshoremen on a tonnage basis; the statistical result being the total equivalent of 27½¢ per ton at present. It can be readily seen that the rate of contribution during the five and one-half year period may adjust up or down depending upon the volume of traffic.

There is no agreement between PMA and the ILWU nor between the PMA members as such as to how the direct employers of the longshoremen are to raise the funds for their contributions. Realistically, it is expected they will,

*Exhibit B*

where possible, pass this on to the ocean carriers. How this is passed on to the carrier, if at all, is a matter of individual contract between the stevedore company and the steamship company, or in the case of f.i.o. charters, between the stevedore company and the charter-shipper. In most instances, it is probably a simple matter for the stevedore companies to add the amount per ton for the mechanization fund, specified as such, directly on their invoices to the ocean carrier for whom the cargo is handled in the same way as other items of employee benefits, such as welfare, pension and vacation costs. If the stevedore is not able to obtain an agreement with his customer to reimburse him for this item, he will have to absorb it because he will nevertheless owe the contribution to the fund.

Essentially the same situation pertains with respect to the terminal companies' contribution relating to marine clerks. How the clerks' employers raise the fund is no part of any agreement or understanding with the ILWU or with PMA. Some may decide to absorb the amount and others to pass it on to the carriers. It can be expected that those who are members of the California Association of Port Authorities will determine [3] this matter as an association within their Section 15 agreement. Just how this might be reflected in the terminals' tariffs, if at all, has not to our knowledge been determined by them.

With respect to the ocean carriers which may bear the ultimate cost of the mechanization fund, that item is no different than vacation, welfare, pension, unemployment insurance and other similar items of costs which the ocean carrier pays directly to a stevedoring company or which are included within the charges paid to terminal companies in connection with loading or discharging ships. It will increase initially the cost to the carriers of transporting cargo, just as an increase in wages increases such costs. However, the mechanization and modernization agreement is for the purpose of facilitating mechanization of cargo



*Exhibit B*

handling and eliminating restrictive work practices with the expectation of ultimate economies in the carriers' operations.

The PMA and the ILWU are not involved in, or directly concerned with, the source from which ocean carriers derive the amounts which may be paid by the carriers to the stevedoring or terminal companies. There is no agreement or understanding, formal or informal, between the PMA and ILWU or between the members of the PMA as to the source from which the carriers will obtain the funds to pay this increased cost. Any changes in carriers' rates resulting directly or indirectly from this cost would be a matter for usual rate making procedures through conferences, but is no part of a PMA function and does not relate to membership in PMA.

The memorandum of agreement on mechanization and modernization between PMA and ILWU is not between two parties subject to the Shipping Act, 1916, as amended. So far as we have been able to ascertain, an agreement between parties subject to the Act to form an association of employers, such as PMA, to represent them for the purpose of collective bargaining with unions representing off-shore or shoreside workers or collective agreements reached thereafter as to wages, benefits or working conditions, have never even been suggested as falling within the scope of Section 15. If a contrary view is now adopted, the Federal Maritime Commission will embark on the unique undertaking of passing on all collective bargaining agreements and labor dispute settlements in the shipping industry. While such an agreement, like any agreement of any kind between carriers, is necessarily a "cooperative working agreement," it is neither remotely connected with, nor bears any resemblance to, the rate making anti-trust matters specifically recited in Section 15 and at which the section is aimed.

*Exhibit B*

We believe that the foregoing explanation should satisfy you that the modernization and mechanization plan is [4] far removed from any considerations with respect to Section 15. As a result of apparent misinformation about the plan and the Association you have asked for a number of documents and records which we are enclosing. So that you may be fully conversant with the mechanization and modernization plan, its background and operation, we are enclosing copies of a number of other documents which we think may be pertinent. The enclosures are as follows:

1. Memorandum of Agreement on Mechanization and Modernization, 10/18/60
2. ILWU-PMA Supplemental Agreement on Mechanization and Modernization, Schedules A, B and C thereof
3. ILWU-PMA Welfare Fund Supplemental Declaration of Trust
4. ILWU-PMA Vesting Benefit Trust—Trust Indenture
5. ILWU-PMA Supplemental Wage Benefit Trust—Trust Indenture
6. Two ILWU-PMA Letter Agreements dated November 15, 1961
7. U. S. Treasury Department letter to Schirmer Stevedoring Co., Ltd. 9/15/61 (We believe this letter contains a concise summary of the program.)
8. U. S. Treasury Department letter to States Steamship Company 9/15/61
9. Copy of By-Laws of PMA
10. List of members of PMA subject to the Modernization Agreement.

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*Exhibit B*

We trust that these documents together with our comments herein answer the inquiry contained in your letter of September 28, 1961. If there is any further information you require, please advise. Otherwise, we should appreciate your advising us of your concurrence in our views that neither the mechanization and modernization plan nor its operation fall within the scope of Section 15.

Very truly yours,

LILLYCK, GEARY, WHEAT, ADAMS & CHARLES  
EDWARD D. RANSOM

Encs.

8-12-20129

cc: PMA

Attn: Mr. Press Lancaster

**Reply of Complainant to Petition of Pacific Maritime  
Association to Intervene in Opposition  
to the Complaint**

(Filed March 8, 1963)

[1] BEFORE THE  
FEDERAL MARITIME COMMISSION

---

[SAME TITLE]

---

Complainant replies to the allegations of the petition to intervene of Pacific Maritime Association (PMA) as follows:

I

Complainant is without knowledge or information sufficient to form a belief with respect to the truth of the description which PMA gives of itself in the first paragraph of its petition.

II

With respect to the allegations under the heading "Petitioner's Substantial Interest and Grounds for Intervention" complainant denies the allegations of paragraphs 1 and 2 under such heading; avers, as is alleged in the Complaint and as is [2] more particularly set forth below, that its complaint is directed solely against the imposition upon complainant of an excessive and discriminatory charge for terminal and stevedoring services and facilities to raise amounts required for the performance of PMA's agreement with the International Longshoremen & Warehousemen's Union (ILWU).

*Reply of Complainant to Petition of Pacific Maritime  
Association to Intervene in Opposition to the Complaint*

III

With respect to the allegations under the heading  
"Background of Complaint Action" complainant:

(1) Denies the allegations of the first paragraph  
under such heading;

(2) Replying to the second paragraph under  
such heading, admits the making of an agreement  
between PMA and ILWU for the creation of a so-  
called "PMA-ILWU Mechanization and Moderniza-  
tion Fund" (the Fund); denies knowledge or in-  
formation sufficient to form a belief as to the truth  
of the remaining allegations of the second para-  
graph under such heading;

(3) Replying to the third paragraph under such  
heading, admits that an agreement or understanding  
or arrangement was made among respondents, PMA  
and certain members of PMA as to how the con-  
tributions to the Fund would be made; admits that  
the contributions for bulk cargo and certain coast-  
wise lumber cargoes were assessed [3] at different  
rates or by different methods than other cargo, in-  
cluding vehicles; avers that although distinctions  
relating to bulk and certain lumber cargoes were  
made by PMA, no such distinction was recognized  
as to unboxed automobiles, although, as PMA and  
respondents knew, the unboxed automobiles of com-  
plainant were and are discharged by stevedores and  
terminals at a per unit cost; avers that the assess-  
ment for the Fund against complainant's automo-  
biles were made on a measurement basis, which, if  
passed on by respondents to complainant, results in  
a disproportionately high, discriminatory and ex-



*Reply of Complainant to Petition of Pacific Maritime Association to Intervene in Opposition to the Complaint*

cessive charge against such automobiles; avers that the necessary and inevitable effect and result of such agreement or understanding or arrangement, as is more particularly set forth below, was and is to impose such disproportionately high, discriminatory and excessive charge on the unboxed automobiles of complainant and on vehicles generally; denies that as a practical or economic matter, as respondents, PMA and certain of its members well know, the direct employers of longshore labor handling complainant's automobiles or vehicles generally can absorb such contributions or adopt any other [4] course than to collect such contributions from the carrier or shipper of such vehicles; except as admitted, averred or denied, denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of said third paragraph; and

(4) Replying to the fourth paragraph under such heading, admits that the proceedings reflected in Exhibits A through K to the complaint herein took place; denies any and all other allegations.

IV

With respect to the allegations under the heading "Position of Petitioner" complainant:

(1) Denies the allegations of paragraph 1 under such heading; avers that the charges which respondents have assessed against complainant are in fact different than the usual increased charges for higher wages and similar increased costs resulting from collective bargaining between employers and unions in that the usual increased charges referred to are

*Reply of Complainant to Petition of Pacific Maritime  
Association to Intervene in Opposition to the Complaint*

assessed by respondents against customers equally on a man-hour basis; avers that the assessment by PMA for the Fund is made on the basis of weight or measurement and when passed on to complainant by respondents [5] for discharging unboxed automobiles, results in a disproportionately high, discriminatory and excessive charge for such services as compared to the amounts charged to other customers of respondents;

(2) Denies the allegations of paragraphs 2 and 4 under such heading; and

(3) Denies knowledge or information sufficient to form a belief as to the allegations of paragraph 3 under such heading; avers that such allegations, even if true, do not deprive complainant of its right to present evidence in support of its complaint that the present agreed method of assessments, with its necessary economic effect on rates for handling complainant's vehicles, constitutes an agreement, understanding or arrangement subject to section 15 of the Shipping Act of 1916 and that the resulting rates violate section 16 and section 17 of said Act.

V

While the foregoing reply places in issue the material allegations of PMA's petition, the petition gives such a distorted and inaccurate picture of the issues raised by the complaint that a further reply by complainant is necessary.

[6] Complainant has consistently stated as a matter of record, and reiterates that it does not claim the agreement made between PMA and ILWU, or the Fund provided for by such agreement, is illegal or subject to Commission

*Reply of Complainant to Petition of Pacific Maritime Association to Intervene in Opposition to the Complaint*

jurisdiction. To assert as PMA's petition does that the complaint is an attempt to subject this agreement concerning labor relations and collective bargaining to Commission jurisdiction is completely misleading.

The issues raised by the complaint relate exclusively to the method which respondents, PMA and certain members of PMA have adopted to raise the amounts that must be paid to the Fund provided for in PMA's agreement with ILWU. The internal agreements, understandings or arrangements made among the respondents, PMA and certain of its members to raise such amounts are of no concern to ILWU, and have nothing to do with labor relations or collective bargaining. But inasmuch as these internal matters of necessity result in rates and practices with respect to stevedoring and terminal services and facilities, which are discriminatory, unfair, preferential, unreasonably prejudicial or unjust, they are properly within Commission jurisdiction. The assertion by PMA that its verified denial of an agreement or understanding or arrangement renders this issue [7] "moot" at most merely raises an issue of fact on this subject for determination by the Commission on the evidence presented.

PMA insists in its petition that the method by which its employer-members who furnish stevedoring or terminal services and facilities pass on the additional expense of the assessments PMA and its members have established is of no concern to PMA. It seeks in this manner to escape from responsibility for or participation in the establishment of a discriminatory assessment as to complainant's automobiles and vehicles generally. To do so, it must and does ignore the fact that as an economic and practical necessity the assessments it has established must be passed on by its employer-members directly to the carrier or shipper. If the assessment is disproportionately high against cer-

*Reply of Complainant to Petition of Pacific Maritime Association to Intervene in Opposition to the Complaint*

tain cargoes (in the case of unboxed automobiles increasing the cost of their discharge approximately 22 per cent to 32 per cent as compared to an average increase to other cargo of only approximately  $2\frac{1}{2}$  per cent) no employer-member can absorb the increase. Neither can it spread the increase over other cargo handled and still compete with stevedores or terminal operators who handle no vehicles or only a small amount of them. In practical effect, as the respondents, PMA and its employer-members well know, the disproportionately high assessment against unboxed automobiles *must* be passed on to the carrier or shipper if the stevedore or terminal operator is to remain in business. When such a [8] situation is brought about by the majority vote of PMA and its members there exists an agreement, understanding or arrangement within section 15 of the Shipping Act, which fixes or regulates transportation rates unjustly and in a discriminatory and unfair manner. An express written agreement under such circumstances need not exist if the action of PMA and its members, including respondents, presents a "conscious parallelism" among such members from which a concert of action and an understanding must be inferred that, in the absence of exemption as provided for under the Shipping Act of 1916, would contravene the antitrust laws of the United States.

The allegation of the petition that the "method of allocation by PMA to obtain contributions to the Fund including the contributions of respondents here, is in fact not challenged by the Complaint" is simply not true; the very contrary is the case. Equally misleading is the statement in the petition that respondents in their Answer to Libel (Exhibit B to the Complaint) in the litigation before the United States District Court "in effect \* \* \* considered such contributions were valid and were due and owing



*Reply of Complainant to Petition of Pacific Maritime  
Association to Intervene in Opposition to the Complaint*

by them." The Answer to Libel alleges that the assessments for the Fund are made "on the understanding that the employer can lawfully collect the amount of the assessment from the carrier or cargo owner for whom the employer performs the stevedore and terminal services" (Exhibit B, par. V) [9] and admits that respondents have not paid assessments where the carrier or cargo owner has contended that the assessments are unlawful (Exhibit B, par. IX). These are hardly admissions that the contributions are valid and due and owing; rather they are reservations by respondents of their rights should the contributions be determined to be invalid.

WHEREFORE, complainant prays that after due hearing and investigation complainant be granted the relief sought in the complaint.

Dated at San Francisco, California, this 7th day of March, 1963.

Respectfully submitted,

PETER CURTIS  
Peter Curtis

.....  
An authorized representative  
of Complainant

Attorneys for Complainant:

HERZFELD & RUBIN,  
WALTER HERZFELD,  
40 Wall Street,  
New York 5, New York.

PILLSBURY, MADISON & SUTRO,  
S. J. MADDEN,  
225 Bush Street,  
San Francisco 4, California.



**Application for Subpoena Duces Tecum**

(Filed April 8, 1963)

[1] BEFORE THE  
FEDERAL MARITIME COMMISSION

Docket No. 1089

---

VOLKSWAGENWERK AKTIENGESELLSCHAFT,

Complainant,

v.

MARINE TERMINALS CORPORATION, and MARINE TERMINALS  
CORPORATION (OF LOS ANGELES),

Respondents.

---

To: Benjamin A. Theeman,

Presiding Examiner of the above-entitled proceedings.

Complainant hereby applies for a subpoena duces tecum directing the following persons to produce the following documents at the hearing scheduled in the above proceedings on April 22, 1963, at 10:00 A.M. in Room 11, Federal Office Building, 50 Fulton Street, San Francisco 2, California:

1. Kenneth F. Saysette, Vice President and Treasurer, Pacific Maritime Association, 16 California Street, San Francisco 11, together with all papers, books, documents, records, files and memoranda of Pacific Maritime Association, or of his own, available to him or under his control concerning the method of assessing and collecting funds for the

*Application for Subpoena Duces Tecum*

so-called "PMA-ILWU Mechanization and Modernization Fund" including, but not limited to:

(a) A true copy of the agreement between PMA and ILWU creating said Fund;

(b) All minutes of PMA directors' meetings, general membership meetings and funding committee meetings since January 1, 1961, at which any action or discussion is or was recorded relative to the said Fund and the method of assessing and collecting assessments to said Fund;

(c) All directives, orders or communications to members relative to the assessment and collection of assessments to said Fund;

(d) All inter-office memoranda and communications concerning the method of assessing and collecting assessments to said Fund.

2. Peter N. Tiege, Vice President and General Counsel, American President Lines, Ltd., 601 California Street, San Francisco 8, together with all papers, books, documents, records, files and memoranda of Pacific Maritime Association, or of his own available to him or under his control concerning the method of assessing and collecting funds for the so-called "PMA-ILWU Mechanization and Modernization Fund" including, but not limited to:

(a) All records, minutes of meetings, reports and recommendations of the special Pacific Maritime Association Committee on Work, Improvement Fund Contributions Procedures and of the so-called PMA Funding Committee;

(b) All inter-committee, inter-office or personal memoranda or communications of the afore-

*Application for Subpoena Duces Tecum*

said Committes with respect to the method of assessing and collecting assessments for said Fund.

Said books, papers, documents and records are relevant and material to the issues herein in that they contain information as to the method adopted by PMA and certain of its members for the collection of the so-called PMA Mechanization Fund assessments, and whether such collection method constitutes an agreement, arrangement or understanding as to how members of PMA, including respondents herein, shall charge to or collect from their respective customers, such assessments, and whether the charges made by members of PMA for discharge of unboxed automobiles are discriminatory or prejudicial to the shippers or importers thereof or constitute unjust or unreasonable regulation or practice.

Dated: San Francisco, California,  
April 4, 1963.

HERZFELD & RUBIN,  
WALTER HERZFELD,  
40 Wall Street,  
New York 5, New York,

PILLSBURY, MADISON & SUTRO,  
S. J. MADDEN,  
225 Bush Street,  
San Francisco 4,

By S. J. MADDEN  
S. J. Madden

Attorneys for Complainant.

["Certificate of Service" omitted]

(Ruling on Application 1)  
68a

**Ruling on Application for Subpoena Duces Tecum**

(Filed April 12, 1963)

**FEDERAL MARITIME COMMISSION**

WASHINGTON, D. C.

April 12, 1963

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[SAME TITLE]

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[1] Complainant duly applied for subpoena duces tecum in the above proceeding and respondents have stated they have no objection thereto. A reasonable showing having been made, the application is herewith granted.

BENJAMIN A. THEEMAN,  
Presiding Examiner.

### Excerpts from Testimony

[36] Kenneth Frederick Saysette was called as a witness by and on behalf of the Complainant and, having been first duly sworn, was examined and testified as follows:

*Direct-examination by Mr. Madden:*

Q. Will you state your full name for the record, please.

A. Kenneth Frederick Saysette.

Q. What position do you hold? A. Vice-president and treasurer of Pacific Maritime Association.

Q. And how long have you had that position? A. As treasurer, 17 years; vice-president's title [37] about 11.

Q. In your position, do you have custody of records of the company? Are they available to you in the Association?

A. I have custody of some, and available to me others.

Q. You received a subpoena to bring with you certain records here which you have worked on with Mr. Torre? A. I did.

[50] *Direct-examination (Resumed) By Mr. Madden:*

Q. Mr. Saysette, can you tell us what assessments are made by the PMA under its by-laws, excluding the mech fund assessment? A. The only assessments referred to in the by-laws go to assessments by the Association, which the Association may have to levy for the operation of its own organization.

We have dues and assessments from three or four different sources which are collectable for different purposes of operating the Association. We talk about a seagoing personnel assessment, which is an assessment to operate the Association, a labor function in negotiating contracts with the various seagoing unions.

We have other assessments on the shoreside end of it for dues, which is on a tonnage or a manhour basis, also



*Kenneth Frederick Saysette—for Complainant—Direct*

used for operating the Association. There is nothing in the by-laws there in any way, shape, or form, which is used or intended to be used for assessments in connection with labor problems.

Q. You mentioned on-shore assessments on a tonnage and manhour basis. Can you explain to whom that assessment applies?

[51] Examiner Theeman: Off the record.

(Discussion off the record.)

Examiner Theeman: On the record.

Would you repeat the question, please.

The Witness: Assessments or dues, as they are called, are assessable on a tonnage basis against all steamship and stevedoring companies who report tonnage to the Association and pay such tonnage dues to the Association, based on cargoes handled.

There are also manhour dues paid into the Association by the contracting stevedores, a good portion of that money being used to defray the cost of the longshore dispatch hall in the Pacific Coast which, by contract, we share a joint responsibility with the ILWU.

We have also what you might call payroll dues where the companies using our payroll facilities pay into the Association a percentage of the dollar volume of payroll which we handle for them.

*By Mr. Madden:*

Q. Are there assessments payable by members to create welfare funds, pension funds, or vacation funds? A. No, these are part of collective bargaining agreements between the unions and the PMA.

Q. And to whom are those payments made? A. The payments are made by the individual employers [52] responsi-

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ble for making those payments in accordance with the collective bargaining agreement to the Association, which has acted for many, many years as the collection agency for the fund.

The monies, after they are collected monthly, are turned over to the trustees of the various funds.

Q. On what basis are those assessments made? A. They are made on several different bases. They are made on man hours. They are made on man days of employment on the seagoing side. They are made on man hours on the shore side.

Q. Who constitutes the membership of PMA? A. The membership of PMA consists of American and foreign flag steamship companies operating in and out of Pacific Coast ports, between the Canadian and the Mexican border.

The contracting stevedores also are members of PMA at their own option. They can belong or not belong, as the case may be, and various terminal companies on the Pacific Coast belong.

These various organizations belong for the reason that they have a direct interest in any labor negotiations we may have, particularly the foreign lines and the American lines, and the contracting stevedores with the ILWU and the various types of labor we get through our collective bargaining agreement shoreside.

[53] The American flag operators, those that are operating out of the West Coast, are interested in our collective bargaining process with the various unions who are headquartered on the Pacific Coast.

Q. Those are the seamen's unions? A. That is right.

Q. Under the by-laws, will you describe the method of voting rights granted to members? A. Every company belonging to the Association is entitled to one vote by reason of the fact they are a member. All companies supporting and paying tonnage dues into the Association

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for the operation of the Association are entitled to one additional vote for every full 100,000 tons of cargo on which such dues are paid.

On the seagoing side, I would have to refresh my memory, but I believe there is one additional vote that is entitled to employers of seagoing personnel for each additional 100 men employed by those companies, a full 100.

Q. Does this apply to both foreign and American flag?

A. The tonnage computation of voting strength applies to foreign lines as well as to American flaglines, and has applied to the contracting stevedores as well. In other words, the contracting stevedores will report and handle cargoes for non-member companies who can't report and pay in directly, but the contracting stevedore does or is [54] obligated under the by-laws to report those tonnages and pay dues into the Association on such non-member companies.

Q. How about the voting for each 100 seagoing men employed? Is that voting right granted foreign steamship companies, too? A. No, because they are not a part of our collective bargaining agreement for seagoing unions on the West Coast.

Q. As between the steamship line companies and the contracting stevedore and terminal companies, who has the majority of the voting power? A. Right as of now, the contracting stevedores I believe have a majority of the voting power.

Q. Would it be possible for you to furnish us perhaps by tomorrow a breakdown of the voting power of the membership?

Mr. Ransom: Mr. Examiner.

Examiner Theeman: Yes.

Mr. Ransom: I should like to have clarified whether he is talking about the shoreside with which

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this case is concerned, or if he is also talking about off-shore. There may be a difference.

In other words, this case isn't involved in the seamen.

Examiner Theeman: Can you respond to that, Mr. Madden?

Mr. Madden: I, of course, am interested in the [55] shoreside situation, but that leads to another question.

*By Mr. Madden:*

Q. In considering the contract negotiations with the labor union that led to the ILWU agreement with PMA, did the steamship companies exercise a voting right in their approval or disapproval? A. Very definitely, because they reported a very substantial amount of tonnage, being members of the Association.

Q. Is their voting right reduced by the number of votes they are entitled to per 100 men in this voting, or do they get their full vote? A. The voting strength is predicated on a full vote, as approved by the directors annually.

Q. So far as the adoption of a contract is concerned, the steamship company would, each one would get his full vote? A. That is correct.

Q. Is the same true in the adoption of a method of assessment for mech fund payments? A. That would be true.

Q. Counting those voting on that basis, who would have the majority control for voting? A. The majority control, as I recall it, was still in the hands of the contractor, even though the seagoing personnel votes were included with the American flag operators.

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Q. Then may I repeat the request. Is it possible for [56] you to furnish us a list of the voting members and the number of votes by tomorrow? A. (No response.)

Examiner Theeman: Can you answer the question?

The Witness: We could.

*By Mr. Mudden:*

Q. Don't you have a list that is made periodically from time to time? A. No, this voting strength is made up annually.

Q. Well, perhaps, if it would be much simpler for you, why, it wasn't so long ago then that you must have made it up annually, didn't you? A. That is correct.

Q. Perhaps you can furnish a list of what it was at the end of December 1960 and December 1961, and December 1962, if it is made up already. A. It would be available.

Mr. Madden: May we have—

Mr. Ransom: No objection. If he can make it up, why, we will furnish it.

The Witness: It will be determined on how many additional copies he might have of the voting strength for this last year. I would have to check and see.

Examiner Theeman: Do you think you can have those available by tomorrow, Mr. Saysette?

[58] Q. Do you know whether the majority of the board of directors are from the steamship lines or not, or do you know? A. The majority of the board is from the steamship lines, American flag and foreign.



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[59] Q. Now, I believe you stated that the majority were representatives of the shipping line interests. Has that been true generally over the past several years, say?

A. It has been true as long as I have been with the Association, which is 19 years, and particularly true since our 1949 reorganization as a result of the 1948 waterfront strike when the whole Association was overhauled.

Q. That is when the present Pacific Maritime Association was formed to take over from the old Pacific Coast waterfront? A. Well, it was actually a consolidation of several different associations, and the Waterfront Employers' Association of California, the Waterfront Employers' Association of the Pacific Coast, the Waterfront Employers' Association of Oregon on the Columbia River, the Pacific American Shipowners Association.

Q. How was the funding committee chosen to study this mech.fund, do you know? A. The funding committee, if I recall correctly, was selected on a recommendation from Mr. St. Sure. I could be wrong, but I don't think so.

Q. It was not elected, it was appointed? A. It was appointed.

Q. By the board of directors? A. Ratified by the board.

[60] Q. On Exhibit No. 5, there is a letter addressed from Mr. Teige to Mr. St. Sure, dated January 4th, in which they set forth the members of the committee:

Peter N. Teige, American President Lines, Ltd.  
Foster Weldon, Matson Navigation Company.  
Ian Back, Union Steamship Company of New Zealand.

O. I. M. Porton, Holland-America Line.  
Hubert Brown, Pacific Far East Line, Inc.  
L. R. Richards, Overseas Shipping Company.

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All of these members were associated with the steamship lines, were they not? A. That is correct.

Q. I believe by Exhibit 6, dated January 11, 1961, addressed from the Pacific Maritime Association, to members, that at a membership meeting on Tuesday, January 10, a vote was taken on the method to be used for contributions to the ILWU-PMA modernization and improvement fund.

It calls for a tonnage formula with bulk cargoes at one-fifth the general cargo rate to be adopted with the understanding that the method of collection will receive continued study and be presented to the membership again in six months.

Was that the formal adoption of the basic method of assessment for the fund by the membership? A. No, this was an adoption of a method of assessing [61] without specifically spelling out the rates. The rates were subsequently developed by a committee and, as I recall, taken up by the board of directors around the middle of January.

Q. It was a little bit later than this January 5th date. Did the membership act upon the recommendation of the funding committee again after January 5, 1961? A. This action taken by the membership was with the understanding that the rate would be set by the directors after the funding committee, as I recall it, had come up with some studies and conclusions as to what the rate should be.

[63] Q. Referring to Exhibit 35, it is provided in paragraph 7 the declaration of tonnage shall be made by member steamship companies and reporting stevedores reporting for non-member companies and for government agencies.

Is that still the method by which reports come to the mechanization and modernization fund? That is, do the

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steamship companies report as well as the contracting stevedores? A. Steamship companies report all tonnages. The contracting stevedores, the contracting stevedores make the payments on the mechanization contribution.

Q. When it is a member steamship company and they make it on the basis of a report made by the steamship company? A. Furnished to the contractor.

Q. The steamship company furnishes it to the contractor, does it? A. The figures, yes.

Q. Was that the case from the beginning, or did originally the steamship company— [64] A. It originally started for a two-week period, as evidenced in the file someplace, that the steamship company started making the payment directly.

On advice of counsel, we changed making the payment on account of some internal revenue regulations which says that any benefit along this type of plan, the contribution had to be made by the employer, and not by a second party.

Q. Now, under the plan as adopted, general cargo was to be assessed at  $27\frac{1}{2}$  cents per ton, as manifested with 2,000 pounds weight, 40-cubic foot measurement, and 1,000 board feet of lumber, constituting a ton, but then it is provided that the contribution rate on bulk cargo will be  $5\frac{1}{2}$  cents per ton.

. . .

Q. Do you know why bulk cargo was assessed at only one-fifth of the rate of general cargo? A. On the basis that generally on bulk cargo there is not nearly the manpower content needed to handle that cargo as compared with cargoes of higher density, such as general cargo.

Q. So the amount of manpower needed to handle bulk cargo was a consideration given in determining the assessment rate? [65] A. On the basis that many more tons could be handled.

Q. Now, has there been any change in any of the methods of assessment under the mech fund plan since its original inception, other than some modifications in rates? A. (No response.)

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Q. Has there been any change in any assessment to any particular cargo? A. The only change I can think of, and I can't exactly pinpoint it from memory, as to whether it took place the day we adopted the rate or at our membership meeting before the directors set rates, but formerly under our old reporting procedure scrap iron, for instance, took the general cargo rate and would have taken the full 27½ cents a ton.

The change was made because of the fact that the cargo handling techniques in handling scrap metal had been improved substantially over the last several years before the mechanization plan went into effect, and it was a lot faster handling cargo than it formally had been; and consequently it should be considered in the bulk category class.

Q. This change was adopted at the outset of the plan, or did you say you weren't sure whether it was? A. I think it was adopted at the membership meeting before the directors set a rate for the cargoes.

Q. Now, what about shipments of lumber in the coast-wise trade? Was there ever a change made in the method of [66] assessing lumber in the coastwise trade? A. There was not too long ago retroactive to January 16, 1961, on the same basis, namely, that—

Mr. Ransom: Excuse me, may I ask that the Examiner ask the witness simply to answer the question. He has not been asked the reason. He has merely been asked if there were any change.

The Witness: Thank you, well taken.

The answer is yes.

*By Mr. Madden:*

Q. And what was that change? A. It was changed from 24½ cents per thousand to, as I recall, five cents per thousand.



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Q. Do you know what the basis of that change was, or the basis for making the change? A. Packaged lumber.

Q. You mean previously—

Examiner Theeman: Let the witness explain, Mr. Madden.

The Witness: Previously lumber was loaded board by board. In later years, it is now packaged, and lent itself to simplification of handling.

*By Mr. Madden:*

Q. Again, then, there was not the necessity for as much labor? [67] A. That is correct.

Q. To go into the handling of lumber? A. That is correct.

Q. In determining the assessment on the basis of tonnage, who decides whether particular cargo is manifested by weight or measurement in a situation where there is no uniform practice? A. (No response.)

Q. Do you know? A. No, this was discussed in committee, but I don't know.

Q. Referring to Exhibits 34 and 35, announcing the mech fund assessment, were there protests immediately to the method of assessment from the Complainant's representative to PMA? A. Yes.

Q. That would be Exhibit 7, a letter from Winchester Agencies to PMA, would it, being the first protest, at least? A. That is one.

Q. Were there protests from any other sources with respect to the assessment on vehicles, by—besides Volkswagen?

Mr. Ransom: What was the word—excuse me—assessment on what?

Mr. Madden: Vehicles.



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[68] The Witness: I can't recall of another off-hand.

*By Mr. Madden:*

Q. Did any of the direct employers protest; that is, the contracting stevedores? A. My recollection is that several did.

\* \* \*

[69] Q. Do you recall writing to the members of the Association in January of 1958, stating that a number of steamship companies and contracting stevedores had been reporting automobiles on a weight basis and asking them to correct that situation and report on a measurement basis? [70] A. Yes, I remember that letter.

Q. And it would appear that, at that time at least, some of the members were reporting on a weight basis instead of a measurement basis? A. They were, and we found out, and we asked them to remit retroactively.

\* \* \*

[71] *By Mr. Madden:*

Q. How is the cargo in a container assessed under the mech fund? A. My recollection is that the containerized cargo is assessed on 85 per cent of the cubic contents.

Q. That is on a measurement basis? A. On a measurement basis, as far as I know.

Q. I do not seem to have a copy of this letter, but this is a typed copy of the letter, presumably headed with the Pacific Maritime Association letterhead, with a date of February 3, 1961, addressed to members, and purports to have been sent by you, Mr. Saysette.

It has to do with cargo dues, tonnage, automobiles. Do you recall sending a communication of that nature to members? A. I would like to see a copy of the original letter, if I could. It sounds familiar.

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Examiner Theeman: Off the record.

(Discussion off the record.)

Examiner Theeman: On the record, please.

Mr. Madden: This letter of February 3rd is addressed to members entitled, "Cargo Dues, Tonnage, Automobiles," and it refers to your earlier letter of January 16th that we mentioned a moment ago, in which you stated that automobiles should be reported to the Association on a [72] measurement basis, to tonnage dues purposes.

We indicated that if a steamship company or contracting stevedore was reporting automobiles or any other cargo using weight, when measurement should have been used, a supplementary tonnage report should be submitted promptly to the association adjusting such errors, together with a check to cover the additional amount of dues involved.

Since the institution of the modernization and improvement fund, it has come to our attention a number of contracting stevedores and steamship companies are still reporting automobiles for tonnage dues purposes on a weight basis instead of measurement.

The theory of dues and assessments is predicated on the fact member companies shall pay on exactly the same basis, thereby assuring all companies each is paying a share of dues for assessment programs.

Any steamship company or contracting stevedore who has not been reporting and paying dues on automobiles on a measurement basis since January 1958 should immediately complete a revised tonnage declaration form indicating by vessel and date the tonnage on automobiles reported on a weight basis, the tonnage which should have been reported on a measurement basis, and the difference which is as-

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sessable at 2½ cents per ton, and it goes on about the check and [73] future reports.

Now, do you recall that there was some such letter?

The Witness: That is right.

*By Mr. Madden:*

Q. And on whose authority did you write this letter?

A. The authority was based on the letter that I sent out in 1958 calling their attention to the fact that it should have been paid on measurement, and was not.

Q. And this again was called to your attention when you were getting the first report in on the mechanization fund assessment? A. Right.

Mr. Ransom: Mr. Examiner, we find that it is in Mr. Teige's file, which they asked for, and which will be produced, so we have no objection if you wish to put that in, or whatever you want to do with it, but it was something that happened to be in another file.

They haven't yet asked for it.

Examiner Theeman: Very good.

Mr. Ransom: So I just wanted to clear the record on that.

Mr. Madden: Again I will have to have some copies made.

Examiner Theeman: Without objection—

Mr. Zimmerman: No objection.

[75] Q. Is the fund at the present time currently keeping up with its requirements? A. We have done very well. We made our \$5 million dollars in the last two years, excluding non-contributors.

*Kenneth Frederick Saysette—for Complainant—Cross*

Q. When you say excluding non-contributors, do you have sufficient funds, despite their non-contributions? A. No.

Q. Or do you need the contribution? A. No, we need that contribution, to make our commitment.

Q. Would you need the full amount? A. We would.

Q. If all autos were assessed on a weight basis and paid, would the fund be current or not? A. I would say not.

Q. So that if auto assessments were lowered, it would be necessary to raise the assessment on other cargo to meet your funding requirements? A. That is correct.

[81] *Cross-examination by Mr. Ransom:*

Q. Mr. Saysette, in connection with Exhibit 6, which I will show you, that exhibit is a report on the membership [82] meeting. You were asked whether the membership at that time approved the assessment that had been introduced or suggested by the committee, and your response was that the amount, the rate hadn't then been determined.

What I wish to ask you is whether, regardless of the computation of the rate, the membership did not at the meeting of January 10th adopt or vote in or improve the method of assessment. A. They improved the method of assessment.

Q. And the rate was merely a matter of computation? A. That is correct.

Q. In connection with Exhibit 36, which is the letter to members of February 3, 1961, regarding tonnage assessments on membership dues, and a letter in 1958 in which you stated, "This letter of February 3rd is based upon," will you state whether the situation therein described, where it had come to the attention that there were some reporting of

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automobiles for the dues purposes on a weight basis, was usual or unusual, at this time? A. In 1958?

[83] Q. First in 1958? A. Reporting on weight basis was unusual.

Q. What was the purpose, then, of sending the letter out? What was the object of it?

Examiner Theeman: Which letter are you referring to now, Mr. Ransom?

*By Mr. Ransom:*

Q. Well, let's refer to the 1958 letter. A. The purpose was to bring into line, if you wish to call it that, some companies who had been reporting automobiles on a weight basis rather than on a measurement basis.

Q. Now, referring to the Exhibit 36, the letter of February 3, 1961, was there any particular automobile that had precipitated that? A. My recollection was it was the Volkswagen shipload shipments that precipitated this particular problem.

Q. If I understand you, there had been a reporting since you had discovered a Volkswagen on a weight basis rather than a measurement basis? A. That is right.

Q. And you wrote the letter to the membership generally? A. That is right.

Mr. Ransom: That is all.

[84] *Redirect-examination by Mr. Madden:*

Q. Do you recall what company it was that was reporting on a weight basis? A. My recollection the companies were reporting on a weight basis from Marine Terminals, California Stevedore & Ballast Company, and I believe Asso-



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ciated Banning down south, Brady-Hamilton in Portland, and I believe Seattle Stevedoring Company in Seattle.

Q. Would your office still have those reports? A. Prior to the mechanization fund, there was no break-out to delineate or define what was automobiles and what were not. We just happened to hear about the fact that automobiles were being reported on a weight basis instead of on a measurement basis.

Q. On February 3rd, when this letter went out, had you received any reports on the mech fund yet? A. Yes, it is possible, but we would have received very few.

Q. Are those reports still in your office? A. Not on the new forms where it can be spelled out.

Q. Then your reports won't show where these contracting stevedores you named reported on a weight basis, or on a measurement basis? A. We don't have the manifest.

[85] Q. If I understand you correctly, then, it was just on the basis of your recollection that it was these particular stevedores that were reporting on a weight basis, the ones that you named? A. We traced it through the office by checking up on a ship and asking the contractor how he reported. He said on weight.

That is wrong, and then from that, why, we pinpointed some other contractors on the Coast who were doing the same thing.

Q. And when was this? A. This was very shortly after the mechanization plan started.

Q. Did any of them claim that they were reporting on other bases, or on the basis of how the vehicles were manifested? A. They did state that they were reimbursed, or they paid the contractor on a unit basis.

Q. And you say you pinpointed the various ones who had been reporting on a weight basis. How did you find out to go back to them and have them correct their assessment if you didn't have any records? A. We assumed that

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all companies are honest in their declaration, and if they report so many weight tons and so many measurement tons we take their word for it. We have [86] now instituted a program whereby, as a result, primarily, of this automobile problem having Price-Waterhouse go out and audit 15 companies a year now on a sampling basis to make sure the companies are reporting the way they should.

Q. Did the PMA assess any of these contracting stevedores for past deficient dues? A. No, the letter said, "Please make up the new expense; advise and correct your errors."

And many of them did come through and correct their errors.

Q. They did? A. Yes.

Q. Do you have any record of that? A. I suppose we could dig them out if we had to, but it would be pretty rough going. We have had a lot of paper going through down there.

Q. Perhaps tomorrow you could ask Mr. Lancaster if he could spot where those records might be.

Mr. Ransom: Mr. Examiner, I think we have been awfully cooperative, but I think he is now asking for quite a job, going back three years on membership dues. I think it would be quite a project.

Mr. Madden: We will discontinue further questioning on that.

Examiner Theeman: Are you also withdrawing your [87] demand?

Mr. Madden: Yes, we withdraw our request for a search of the records for this purpose.

Mr. Ransom: Thank you.

Mr. Madden: That is all.

Mr. Ransom: May I ask one question.

*Peter N. Teige—for Complainant—Direct*

*Recross-examination by Mr. Ransom:*

Q. The list of stevedore contractors that you recited in answer to Mr. Madden, would you know whether each of those during this period of time were handling Volkswagens or not? A. I am pretty sure they were.

\* \* \*

[88] PETER N. TEIGE was called as a witness by and on behalf of the Complainant and, having been first duly sworn, was examined and testified as follows:

*Direct examination by Mr. Madden:*

Q. Will you state your full name. A. Peter N. Teige.

Q. And what is your position? A. I am vice-president and general counsel of American President Lines, Ltd., San Francisco.

Q. On what date were you appointed as a member of the so-called funding committee for the PMA mechanization problems? A. I don't remember the exact date, but it was [89] sometime, as I recall it, in November, early November of 1961.

Q. 1960? A. 1960.

Q. Was that when the Committee was formed, or had it existed prior? A. No, that was when it was formed.

Q. And how were you appointed? A. My recollection of that is that we were informed of our appointment by the staff of Pacific Maritime Association, and it is my further recollection that the committee at that time—that is, at what I would refer to as the first Committee—was appointed by the Coast Steering Committee of the Pacific Maritime Association, which is a group of executives of the member companies of PMA who had responsibility for the administration policy of the ILWU coastwide Longshore Agreement. That is the overall basic Longshore Agreement.

*Peter N. Teige—for Complainant—Direct*

Q. And who were the members of the Committee? A. There were six members of the Committee, Mr. Hubert Brown of Pacific Far East Lines, Mr. Foster Weldon of Matson Navigation Company, Mr. Otto Porton of the Holland-American Line, Mr. Ian Back of Union Steamship Company of New Zealand, and Mr. Lloyd Richards of Overseas Shipping Company.

Q. Were any of these members associated with a terminal or a stevedoring member of the Association? [90]

A. Yes, Mr. Weldon's organization, Matson Navigation Company, has a wholly-owned subsidiary, as I understand the arrangement, Matson Terminals, Inc., which is I believe both a stevedore and a terminal operator. It is also my understanding that Overseas Shipping acts as a terminal operator. Of that I am not positive.

Q. What was the name of the man from Matson? A. Foster Weldon.

Q. Did Mr. Weldon, when you were on the committee, indicate that he was familiar with the operation and costs which a terminal and stevedore pays? A. (No response.)

Q. Do you know whether he had any experience in that himself? A. Well, Mr. Weldon was the director of Matson's Research Department, and he is a very able man in the department; I understand their work has gone into most every function of the Matson Company. He was not, however, from their Operating Department, and my guess is that he would have a general understanding of their terminal and steamship operation, but might not know specifics as in the case of a man actually working from day to day in that end of the business.

Q. Now, you have brought various records here with you. Is there a convenient way to describe what these are? [91] A. Well, I have a few notes here. These are copies in chronological order of the papers furnished to you by the Pacific Maritime Association, pursuant to your subpoena, less a group of papers consisting of minutes of

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the Board of directors of PMA, and the members, and possibly a few other papers.

Mr. Madden: Off the record?

Examiner Theeman: Off the record.

(Discussion off the record.)

Examiner Theeman: On the record, please.

Let us adjourn until 10:00 a.m. tomorrow morning. All witnesses appearing will please appear at that time.

(Whereupon, at 4:30 o'clock p.m., the hearing in the above-entitled matter was adjourned, to reconvene at 10:00 o'clock a.m., Tuesday, April 23, 1963.)

[92] BEFORE THE FEDERAL MARITIME COMMISSION

Room 11  
Federal Office Building  
50 Fulton Street  
San Francisco 2, California  
Tuesday, April 23, 1963

The hearing was reconvened at 10:00 a.m., pursuant to adjournment, Benjamin A. Theeman, Examiner, presiding.

Appearances:

(As heretofore noted.)

[94] PROCEEDINGS

Examiner Theeman: On the record. The hearing will be in order.

Prior to the opening of the hearing today, Mr. Ransom supplied the attorneys of record and the



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Presiding Examiner with copies of the voting strength of the Pacific Maritime Association, as he indicated he would do in yesterday's record.

Without objection, each one of the documents is admitted in evidence. That dated February 9, 1960, as Exhibit 39, that dated March 6, 1961, as Exhibit 40, and that dated March 13, 1962 as Exhibit 41.

(The documents referred to were marked Exhibits 39, 40 and 41, and were received in evidence.)

Examiner Theeman: Mr. Teige has resumed the stand.

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Whereupon, PETER N. TIEGE, heretofore called as a witness by and on behalf of the Complainant, being been previously duly sworn, resumed the stand and testified further as follows:

*Direct examination by Mr. Madden (Resumed):*

Q. Mr. Teige, you stated that the original Committee consisted of six members, whom you named, and I think you [95] designated as the original Committee. Have there been changes in the membership of that Committee? A. In January of 1961, after the initial decision had been taken by the Association with respect to the method of assessment, the Board of Directors asked that a new committee be formed to give further study to the question of the proper method of assessment, and at that time Mr. St. Sure appointed a new committee that consisted of the same six members of the first committee, with myself as chairman, and he added three additional members, Mr. Adams of Pope & Talbot Line, Mr. Roehen of States Steamship Company, and Mr. Littlejohn of Grace Line.

Mr. Littlejohn requested that he not be asked to serve as his duty, he felt, didn't permit sufficient time for the job, and so he did not serve and was not replaced.

*Peter N. Teige—for Complainant—Direct*

That committee, as I recall it, again meeting in late January or early February of 1961—

Q. Is that committee still in existence? A. Yes, it is.

Q. With those same members? A. Yes, although I saw in the paper the other day that Pope & Talbot had gone out of the steamship business, and it may be that we have lost a member by that occurrence, but I am not sure of that. They may still have other activities that would warrant their being members of the Pacific [96] Maritime Association.

Q. Mr. Ransom in explaining the total amount of the fund yesterday said that there was a million and a half dollars collected prior to January 1st, approximately, that was to be turned over to the fund. Do you know on what basis that money was collected? A. I would believe it would be better to ask other witnesses about that, because that was prior to my dealing with this. It is my understanding, however, which you can verify with other witnesses, it was on a manhour basis.

Mr. Ransom: We will stipulate that it was on a manhour basis.

Mr. Madden: That will save some time.

Mr. Ransom: We intend to have Mr. St. Sure here to explain all these things.

*By Mr. Madden:*

Q. Now, going back to your Committee when it was first formed, I take it you met several times and discussed various ways, problems, and so forth, on how to arrive at a method of assessment in order to raise the required funds.

A. That is correct. The committee had, as I recall it, five meetings prior to making its recommendation of January 4, 1961, which was the basis of the action of the membership on January 10, 1961.

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Q. During those periods of time did you obtain [97] information or opinions from the outside, or was it pretty much up to the committee to dig up their own information to determine what their recommendations would be? A. The committee had quite a variety of experience in its members. There was a labor relations man, there was a research man, there were several who were traffic men in small organizations where they really get into all facets of the steamship business, including the cost of loading and discharging, method of loading and discharging, and so forth, but then, in addition, these people come from organizations who have men skilled in all phases of the steamship business, and I know in my particular case I spent considerable time with our operating people during this period, and subsequently, too, discussing the various problems that arose in trying to work out a system for the raising of this money.

Q. In your report of January 4th, which has been introduced here as Exhibit 5-A and 5-B, and there was a majority report and a minority report, was there not? A. Yes, there was.

Q. And in the majority report, there was recited various alternatives that weren't considered by the committee. The first, as I understand it, was—well, no. Let me put it this way.

Basically—if I give the report incorrectly, please feel free to correct me, but basically, as I read the [98] report, the committee considered three contentions primarily. Considerations based on manhours, considerations on manifested cargo tonnage, and a combination of manhours and manifested tonnage, and then in addition the report mentioned at least two other suggested plans that, I take it, were not as seriously considered as the first three.

Is that a fair statement? A. Yes, I think that is a fair statement. The other two you refer to were probably given more consideration than the report indicated. These two

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were a system that would measure improvements of each, probably operator or some other entity, improvements in productivity that could be traced to this agreement, and charging on the basis of those improvements.

And the other was a proposal that would charge the fund primarily to container operations, as had been done on the East Coast by the ILA, International Longshoremen's Association, in their collective bargaining agreement with the East Coast operators.

Q. Would you briefly tell the Examiner why the committee didn't think either of those were feasible, or if not feasible, practical? A. I am not sure I can do it briefly. In the collective bargaining that has gone on for a number of years, actually, about this subject of work improvement and [99] mechanization, the discussions had dealt to some extent with a question that later the fund committee had to deal with, namely, who should pay what, and the union had been strongly attracted to the idea of measuring the man-hour savings that would come from the agreement they would make about mechanization work improvement and their taking some share of that saving.

At first it wasn't to be a share, but I believe that was the bargaining employed.

My understanding was that at one stage they were talking about taking it all, but realistically they were talking about sharing the savings.

The industry took some steps to look into that possibility, and a gentleman from the Bureau of Labor Statistics, a Mr. Max Kossoris, was engaged to explore the possibility of measuring productivity improvement.

Subsequently, the industry had meetings about this basic question and decided that it was inappropriate to have this kind of system based on a sharing of savings, and felt that instead the only payments that should be made by the industry should be for the harm that came to the labor force



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in the way of lost work opportunities from the mechanization and work improvement program.

That decision led to breaking away from the sharing of savings idea in the collective bargaining, and when we [100] considered that system we were strongly influenced by this past history and concern was expressed, particularly by the people close to collective bargaining itself, that it would be unwise for the Association to set up a system that was exactly the system the union had asked for, the fear being that it would be a very simple thing to take that over in the next session of collective bargaining which would come up in five years from the date of this agreement.

Any system that we devised, of course, ran that risk, but the feeling was, as to this one, that it was the very system the union had been strong for, and that we shouldn't play into their hands.

There were other objections to the productivity approach, however. These objections were primarily based on the enormous complexity of such a system. You have a large industry all up and down the Pacific Coast, with a myriad of types and arrangements of activities, and to measure the savings in manhours to all of the elements in that complex system and trace those savings to this agreement was felt to be unworkable or at least extremely difficult to accomplish.

Savings could come from many sources, better supervision, a new, more efficient stevedore, a new terminal, different year on the vessel, changes in commodity mixes that would affect manhour usage, and so on, so that the [101] result would be a very complex system.

So those were the two reasons primarily why we did not pursue that any further. The container suggestion—that is, having some sort of assessment that would throw the entire cost of the fund to containerships or operators using containers—was felt to be patently unfair because there were



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many, many other activities in the loading and discharging and terminal processes that were going to have an opportunity at least of being improved under this agreement in addition to this most obvious one of the use of containers.

Q. Then I take it that your committee, in considering these various alternatives, was taking into consideration the fairness of the method adopted and how it would fall upon the members of the Association, and presumably ultimately their customers; would it be fair to say that your committee was considering all those items?

A. The committee considered in a general way the question of fairness, but you will have to recognize that it was dealing with, literally thousands of possible situations involving stevedores, terminal operators, carriers, shippers, consignees, and involving I suppose literally thousands of commodities, and all of these in various relationships.

So it was not possible, and certainly was not done at the time of the January 4th recommendation that we [102] examine every situation, and the impact of this assessment on all of those situations, but we did give—obviously we were hopeful that we could come up with a system that would not be excessively burdensome to anyone—we had other things, however, to consider, and those were collective bargaining considerations.

I have just mentioned a very serious consideration in connection with the measurement of productivity. We had the problem of working out a system that would be simple in its administration. We have a small organization, a small staff, and we are collecting in one sense a small amount of money.

Q. Now, I take it that we don't have to comment too much on the reasons for rejecting the manhour basis as they appear clearly in your report. That was that you felt that the group that was able to mechanize the most and reduce its labor costs the most, increased the unemployment the

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most, would contribute less. A. Yes, I think that is a good statement of it.

Q. Again, though, that would indicate that your committee was thinking, would it not, of the impact of the method of assessment on the particular members who collected it and were faced with the problem of obtaining the money with which to obtain it. A. Yes, Mr. Madden. We were not unaware of the impact [103] of this on the various elements of the industry. However, I should point out that the impact wasn't just a cost. Our problem was much more complicated than that in that the impact of the agreement for which the fund was payment was that it gave an opportunity for savings, and so in considering the total impact of the agreement, and the funds that bought the agreement, you had to take into account in a general way not only cost but opportunities for savings.

So you put those two together in this complex situation, and the close weighing of equities became a real burden to the committee.

Q. The fourth method that was mentioned in the report which was recommended by a minority of the two was a combination tonnage-manhour assessment, and I gather from the report that that is somewhat similar to the way a current assessment for PMA dues is paid.

Am I right or wrong in that? They talk about the 60-40. A. Yes. Yes, there is a distribution of the PMA dues between the funds raised on a revenue tonnage basis and funds raised on a manhour basis. My recollection is that it is 60 per cent manhours and 40 per cent tonnage, but I am not sure of those figures.

Q. I was not clear from reading the report what the reasons were that the majority chose the straight tonnage [104] basis over the combination other than the matter of convenience. I assume there was something more than that, was there not? A. Yes, sir, there was. I think some of the

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majority felt that the inclusion of a manhour measurement, even if only a partial measurement, was as to that part unfair for the same reason that the total manhour method of assessment was unfair, namely, that the operator who chucked off manhours as he improved his operation would be paying less and less to the fund, in this case, as to that portion measured by manhours.

Then I think there was a complication, but that—

Q. Then I think there is an arrangement for paying into the mech fund, was there not, for checkers, and— A. Yes, there is. In late 1961, a change in assessment was made that was recommended by the committee which I chaired, and was approved by the board of directors. There had been concern that some of the employers of clerks performing the receiving and delivering process of terminal operations were not paying anything into the fund on behalf of those clerk employees.

Q. And may I interject there, are those clerk employees covered by the ILWU contract? A. Yes. In other words, these efficiencies can be carried out with respect to those terminal activities, as well [105] the longshore activities. In any event, in an effort to correct this problem, it was recognized that some assessment with respect to clerk labor would be made. The committee explored the possibility of doing that on a tonnage basis, too.

Q. That would be increasing the rate slightly? A. No, it would be applying a tonnage charge to terminal operators for every ton handled over a terminal and then, of course, that would reduce the amount that would have to be paid with respect to every ton loaded in and out of a ship, because usually those are the same tons in 99 per cent of the cases.

That idea of charging for clerks on a tonnage basis was dropped when the staff of PMA reported to us that it was or would be exceedingly difficult to get a reporting system

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that would accurately state the number of tons that a terminal operator was handling.

And as a result of that administrative problem, it was decided to collect the assessment on clerks on a manhour basis, and the result of that were the following changes in assessment:

The number of registered longshoremen and the number of clerks were compared, and the breakdown, as I recall, came out to 88 per cent longshoremen who were registered and in the industry, and 12 per cent clerks. We then [106] said that 12 per cent of the \$5 million per year would be raised by the assessment on clerks, and that fund of money, 12 per cent of \$5 million, would be raised on a manhour assessment.

In other words, the number of cents per manhour that would raise that portion of the \$5 million, so that was computed on tonnage and manhour figures that we had, and it came out to a new rate of 24½ cents per revenue ton on general cargo.

It had formerly been 27½ cents, and the new assessment of 15 cents per manhour on clerks.

Q. That assessment was only on the hours, the man-hours of the clerks themselves, and not the entire work force? A. Just the clerks and checkers, using that term in a general sense, but it is the men in the union who are not handling cargo but are receiving and delivering cargo.

Q. Now, you mentioned something earlier that I would like to emphasize a bit. The ILWU contract covers workers both on the ship and on the dock, does it not? A. Yes. By workers on the ship, I assume you mean longshoremen.

Q. Longshoremen? A. Yes.

Q. And longshoremen on the dock who are handling cargo, as you say, and usually it is the same cargo, so that in [107] determining your measure of assessment you have chosen the contracting stevedore as the person to measure the cargo that came out of the ship, assuming that 99



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per cent of it practically is also the cargo that goes across the dock. Is that correct? A. Yes, I think that is right.

Q. But all those employees then, of course, are entitled to the benefits of this mech fund as set up. It is not just the stevedores on the ship that are entitled to it. A. No; it is my understanding that the benefits are available to clerks and checkers, as well as the longshoremen, in the loading and discharging gang, and to the longshoremen who do dock work such as palletization of cargo, restacking of cargo, sorting, and so forth.

Q. Now we come to the final method that was adopted—I mean was recommended by your committee, and subsequently was adopted by the PMA which, in a word, would be on a tonnage basis, weight or measurement, as manifested. Is that correct? A. Well, that isn't quite correct. The recommendation of the committee and the action of the membership was on a revenue ton basis in a manner in which collections were made on a tonnage basis for dues, and there had been over a period of time in the collection of the portion of dues, based on revenue tons, a clearing up of certain uncertainties about [108] per ton types of cargo.

For example, lumber was on a thousand board feet. They had uniformly established 40 cubic feet as a measurement ton, where as in some trades it is not 40 cubic feet. It may be a cubic meter, and so on.

Q. When you say "they," are you talking about the PMA? A. The PMA—I don't know who did it through the years, whether it was the staff with the Board's approval. I assume that would be the case, but in any event there was a system in being, and our recommendation was that that system be expanded to cover these assessments or these charges.

Q. You referred to revenue tons. I take it that revenue tons means the tons on which the steamship companies base their rates, determining how much they should get



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for carrying the cargo. A. Well, the expression "revenue tons" means that the tonnage, whether weight or measurement, on which the steamship carrier bases his charge to the shipper. As I just indicated, under this system there were some variations that had been established through the years as to the meaning of a revenue ton for the purposes of collecting dues from the PMA membership, and now collecting this assessment.

Q. In other words, it wasn't necessarily the revenue [109] tons of a steamship company method of manifesting, but the revenue tons as had been built up over a period of years in the PMA— A. Yes.

Q. —that you were talking about? A. Yes.

Q. And you don't have any idea how that came about, except by decisions from time to time, for the purposes of reporting dues? A. I really don't know how that was done.

Q. Did the committee give any consideration to how certain cargo might have been reported, whether by weight or measurement, in various trades? A. Well, the committee understood, I believe, that there were different types of revenue tons in various trades. They understood that that was the case.

Q. Actually, isn't it true that the revenue tons by which a steamship company might determine its rates has very little relationship to the cost of loading or discharging? A. Well, I wouldn't say it has little relationship. It has some relationship to the cost of loading and discharging in that it is a measurement of volume which would suggest that there is something there for somebody to do something about when you load and discharge a ship and, therefore, [110] would lead to an expenditure of man hours in the development of costs.

Q. But in the basic element of containerization, isn't it the fact that the loading and discharging is greatly simplified by the fact that one unit is removed of considerable size or volume as compared to many small items, so that

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the size of the particular cargo, so far as loading and discharging is concerned, is not necessarily relevant as it would be to a steamship company which is concerned with space, as well as weight, in its carrying capacity? A. Well, all I can say is what I have said before, that it would be my view that it has some bearing on stevedore activities.

Q. Well, primarily, I gather you are interested in the fact that PMA already had some system of collective bargaining on a weight or measurement basis for their cargo dues when you adopted the same method for the mechanization fund dues.

The Witness: Would you read that question? I missed the beginning of it.

(Record read.)

The Witness: Well, if your question means were we primarily motivated by that fact in choosing this method—

Mr. Madden: Yes.

The Witness: —I would say no, but it was an [111] element and one of the principal jobs that the committee had, it felt, as to the determination of this assessment, was to come up with something that was administratively simple, and easy to operate.

Now, that was not a primary consideration, but it was one of the considerations that this method had the attraction of there being that system in being. That was one of the primary motivations.

*By Mr. Madden:*

Q. Did you not consider the effect of this method of assessment in any detail as to how it might fall on any particular cargoes? A. I think during the discussion in those meetings from time to time, cargoes may have been

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discussed or more likely to be situations being discussed, and given the tremendous number of activities that were affected by this, there weren't very many specific ones.

What we had to do at the outset was come up with a broad general plan, and it was my expectation at least that if, out of this myriad of activity, the transactions that go on in a stevedoring and terminal industry on a whole coast of a country, if in there, in that mass of activity there was something seriously harmed by this assessment, that that would come out, and then we would have to deal with those on their merits, and that is what happened.

[112] Q. There was, was there not, some representation or protest before at least your report was final, by certain scrap metal handlers? A. I don't recall that those interests came to the committee with that problem. They may not have even known who existed—I don't know, but they did make themselves heard to the Association, and that was one instance when the PMA tonnage formula that had been used for the collection of dues was changed.

The scrap had been traditionally for years, apparently, on a general cargo basis, and these people pointed out that, in effect, scrap now was being handled like bulk. It wasn't being carried aboard in swings, but it was being poured in many instances, and in any event was handled very much like a bulk commodity, and my recollection is that the board of directors, as I recall it, without any recommendation from the funding committee, made that change in the tonnage formula at the outset, or very near the outset of the application of the new formula.

Q. Were automobiles discussed at all in any of your meetings prior to your recommendation? A. I don't recall that they were at all. No, I would say they were not, by the first sessions, I mean the sessions that took place prior to the January 4th recommendation.

Q. If a particular commodity, say, in the westbound [113] trade, was manifested on a weight basis and in the

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European trade would be manifested on a measurement basis, would you have any opinion as to how it should be reported to PMA? A. I don't think that happens very often. I think usually things are one or the other, but accepting your hypothetical question, it is my understanding that under the PMA tonnage formula it would be as manifested.

In other words, in one case it would be weight, and another measurement. Now, it is also my understanding that that virtually never happens, but I may be in error about that.

Q. Isn't it true that sometimes freight is manifested by weight even though the measurement—that is, the volume—is greater? A. I don't know the answer. That would surprise me, but there are many surprises in the steamship industry.

Q. If this were the case, if there were such cargoes, this obviously would, would it not, affect the assessment that that cargo paid, or I shouldn't say the cargo paid, that would affect the assessment which the discharging stevedore would have to pay on such cargo—that is, he would be paying the assessment on a measurement, on a freight paid basis, although in fact its volume was greater than its weight?

Mr. Ransom: I am sorry, you lost me. I don't know whether you lost the witness or not. Could we have the [114] whole series—

Mr. Madden: Well, perhaps we will start over.

Examiner Theeman: Rephrase that question.

*By Mr. Madden:*

Q. If there is cargo manifested on a weight basis, although the measurement is greater, would not the stevedore in paying the mech fund assessment be paying on a weight basis rather than a measurement basis? A. Yes,



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he would be if, under the PMA tonnage dues procedures, this was the method on which that is collected. I have to say it that way, because there are exceptions that have been established.

Q. I take it your duty in the steamship company does make you familiar with any particular rate as applied to commodities, do they? A. I would say in general, no.

Q. Do you know whether the contents of a container are manifested on a weight basis or on the measurement of the container? A. Well, I know that in the case of American President Lines, which is a typical foreign trade carrier, that its charges for cargo in containers are with respect to the cargo, not a charge based on a per container basis. In other words, if the container contains measurement cargo, it would then be freighted on a measurement ton basis.

[115] Q. And to the contrary, if it contains— A. It would be freighted on a weight basis.

Q. Regardless of the— A. Method in which it is transported.

Q. Do you have any idea, roughly, maybe in a percentage, in automobiles or vehicles, manifested by measurement tons in the steamship trade, in your company? A. I can just give a very general answer to that, that as I understand the trade that our company is engaged in, they are known as measurement trade. They are trades where most of the commodities moving are on a measurement ton basis, but I couldn't tell you the details of the percentage. It would be high.

Q. Marine Terminals, the Respondent here, does work for your company, does it not? A. They do. They are our stevedores in San Francisco.

Q. They perform terminal services for you, also? A. No, American President Lines performs its own terminal services at its main base of operations in San Francisco, which is Pier 50.



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Q. You have your own pier? A. We are assigned a pier by the San Francisco Port Authority, and we hire directly the terminal labor mainly for the receiving and delivery of cargo activities.

Q. How about in Los Angeles? [116] A. In Los Angeles we engage a contract stevedore, Associated Banning Company.

Q. That includes Long Beach, also? A. Well, we very infrequently call Long Beach.

Q. I see. A. Our main terminal there is a new one, Consolidated Marine Terminal at San Pedro, and there the terminal work is done by a company called Consolidated Marine, Inc., which is partly owned by American President Lines.

Q. I take it that your committee has received numerous protests from time to time with respect to the way the assessments are charged to the contracting employers on vehicles? A. Yes. We have had protests from, as I recall it, two steamship lines, Wallenius Line and Hanseatic Vaasa Line, and from several stevedore companies, all of whom are stevedores for Volkswagenwerk, and a protest from Winchester Agencies who act in some fashion as agents for Volkswagenwerk in San Francisco, possibly some larger area.

Q. Did you ever receive any complaint from any stevedores who handled vehicles for the Government? A. We had a general questioning of the funding formula by the Army which was passed to us through the stevedores, I believe.

I had forgotten that when I answered your earlier [117] question. The principal thrust of that inquiry had to do with Army containers, but I believe there was a reference to Army vehicles.

However, that was never pursued and never really became, as I recall it, any kind of a burning issue with the

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Army or any of their stevedores, and that meant, then, that all unboxed vehicles in the Army were and are assessed on a measurement ton basis.

Q. Has there been any cargo or commodity which moves in volume to the Pacific Coast or from it, other than vehicles, that has been called to your attention, on which the measurement assessment hits the cargo, that has a greater percentage increase as it does vehicles? A. No one has called any such situation to my attention, but I assume there are such situations.

Q. You assume that. On what basis do you assume that? A. That there are cargoes—

Q. I am speaking of cargoes that move in volume, of course. A. I missed that part of your question.

Q. Oh, I am sorry. A. I would say that no such instances have been called to my attention, and I withdraw my assumption.

Examiner Theeman: Mr. Ransom?

Mr. Ransom: I am sorry, but I just didn't hear you, [118] and perhaps you can tell me off the record what that question and answer was about. I just want to know.

Examiner Theeman: Off the record.

(Discussion off the record.)

Examiner Theeman: We will take a five-minute recess.

(Short recess.)

Examiner Theeman: On the record.

*By Mr. Madden:*

Q. Now, there were prompt protests from the representatives of Volkswagen or their contracting stevedores, were there not, immediately after the announcement of the assessment? A. There was a very prompt protest from

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Winchester Agencies on behalf of Volkswagenwerk, their principal, in the form of a letter dated January 17, 1961.

Q. You are referring, I believe, to Exhibit 7, which was an exhibit received in evidence yesterday. A. That is correct, and I believe at or about that time there was a protest from the Hanseatic Vaasa Line. I do not recall any protest at that time from stevedores, but those came in subsequently later that year, in May.

Q. In May? A. In May of that year.

Q. That was prior to your first six months review of [119] how the assessment was working out? A. Yes. The second committee, so-called, was formed in January of 1961, began meetings, had held a series of meetings, and sent out in May of 1961 a letter to the membership of PMA asking for suggestions as to a new basic method of assessment.

Though it asks for suggestions on a basic method of assessment, it was a natural enough reaction for people who had specific objections to raise them at that time, even though they did not take the form of proposing a new basic method of assessment, and in the letters that came in—and there were not very many—were the letters from the Volkswagen stevedores.

Q. Those letters pointed out, did they not, that the assessment, as imposed, was sufficiently great that it was impossible for a stevedore to absorb the assessment? A. I don't recall if the word "impossible" was used, but certainly it was suggested that they felt it was impractical to expect them to absorb the assessment.

Q. Didn't they actually indicate that the assessment was much greater than any possible profit that they could make out of handling Volkswagens under the present rate?

Mr. Ransom: Mr. Examiner, if he is going to be questioned about these letters, and, "Didn't they

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say so-and-so," I think the letters would be the best evidence. [120] He hasn't been bashful about putting in all kinds of exhibits so far. Let's put them in.

Mr. Madden: They aren't exhibits, so far, are they?

Mr. Zimmerman: No.

Mr. Madden: Then I don't object to putting them in.

Mr. Zimmerman: I take it back. They are in.

Mr. Ransom: Excuse me. Then let's refer to them by exhibit numbers.

*By Mr. Madden:*

Q. Did you first of all receive Exhibit 9, addressed to Mr. Saysette? A. That letter from Mr. Horsman of Marine Terminals Corporation to Mr. Saysette, of March 1, 1961, was subsequently referred to the funding committee. That was not one of the group of letters I was referring to, however.

Q. You were probably referring to Exhibits 16, 17 and 18? A. That is right.

Q. Similar letters, setting forth the facts which they hoped your committee would consider? A. Yes. They, as I recall, in each instance quoted a statement from one of their customers—I assumed it was Volkswagen—that set forth reasons why it was felt that [121] the assessment was unfair to this particular shipper.

\* \* \*

[123] Would that be in line with your understanding of how your company handles containers, that is, the contents are assessed as manifested rather than the volume that they may take up in the container? A. Well, that portion of the brief note is discussing the problem of assessment of Army containers, and I believe the reference

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to contents as manifested under the word "recommend" refers to the decision of the committee which, if not taken at this time, was at least reflected as a coming decision that military containers should be charged in the same manner as commercial containers and, as I have indicated earlier, that would be on the basis of the contents as manifested.

Q. There is another entry here of, "Restraintive trade." Do you recall what the discussion was about restraintive trade? A. I think there was a general discussion probably raised by Mr. Lancaster, who is in touch with the PMA counsel, generally, about the activities of the fund. That committee and the PMA should be aware of the dangers of taking any action that would be in restraintive trade in connection with the administration of this fund.

Q. A general discussion? A. A general discussion. It was not a discussion about anybody being in restraintive trade but, rather, making

[125] \* \* \* as Exhibit 42.

(The document referred to was marked Exhibit No. 42 and was received in evidence.)

Examiner Theeman: Off the record, it was stipulated between counsel that a memorandum of notes of the third meeting held on 2/21/61, in Mr. Lancaster's handwriting, and without objection it is admitted as Exhibit No. 43.

(The document referred to was marked Exhibit No. 43 and was received in evidence.)

Examiner Theeman: Without objection, a memorandum dated February 24, 1961, to committee members from PMA, is admitted in evidence as Exhibit 44.



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(The document referred to was marked Exhibit No. 44 and was received in evidence.)

Examiner Theeman: Mr. Madden?

*By Mr. Madden:*

Q. Mr. Teige, referring to Exhibit 43, on the second page there is an entry reference to autos to be kept on "M.T." basis. And then there are some indications on the side which I take it are votes of the members. Do you recall at that meeting what was discussed about autos and what was [126] decided? A. I remember in a general way that the position that had been asserted on behalf of Volkswagenwerk in the letters I have earlier referred to was considered again and discussed, and a vote was taken to keep the unboxed vehicles on a measurement ton basis, as in the original formula.

Q. Now, referring to Exhibit 44, the meeting of February 24th, Item 4 in those minutes, states, "The mechanization fund assessment for autos should be on a measurement ton basis regardless of how manifested."

Now, was that a new decision of the committee at that time? A. No, my understanding of that, and also the notation in the notes of the minutes of the meeting of February 21st, Exhibit 43, was a reference to the method of assessing for autos that had traditionally been used in the dues assessment.

Q. In other words— A. It was not a new decision but, rather, a reaffirmation of the existing formula.

Q. In other words, while cargoes generally might report—no—cargo generally handled by a stevedore might be reported for dues purposes on the basis of how it was manifested, and it was your understanding that automobiles, regardless of how manifested under the PMA rules from their [127] past practices, were to be reported on a

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measurement basis? A. Yes, and that isn't as bad as it sounds, because in most instances autos are on a measurement basis. It is what the steamship people know to be measurement cargo. The problem that had arisen was that some of the conferences I believe were freighting it on a unit basis and, therefore, something specific had to be done in computing the tonnage for the tonnage portion of the dues assessment to charge autos that were freighted on a unit basis.

Examiner Theeman: Would you read back, Mr. Lewis, the whole answer, please, to see that we have the continuity.

Just a moment, please, Mr. Madden.

(Record read.)

Examiner Theeman: Thank you.

Will you continue.

*By Mr. Madden:*

Q. When you say it was your custom to freight them on a measurement basis, was that the result of any particular study, or was that the conclusion of your committee? A. Well, when I said that, I was talking about my own knowledge of the freighting of automobiles.

Q. And that freighting—

Mr. Ransom: Let him finish.

Mr. Madden: Oh, I am sorry.

[128] The Witness: At the time this subject came up, there was discussion about how automobiles are freighted, and what had PMA been doing about autos in connection with the collection of the tonnage portion of the dues. In other words, it was a new subject to the committee, and the committee in this meeting and prior ones discussed all aspects of the problem.

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We discussed the possibility for the benefits that could be achieved by the stevedores or their customers in the handling of autos under the agreement, because obviously that was an important consideration in deciding what someone should pay.

*By Mr. Madden:*

Q. Before I ask you about that, in your discussion in general of how automobiles were freighted, was there any discussion of how they might have been freighted in full shipload under charter, or was it entirely under what the conference rated? A. No, we understood, as I recall it, that that was the way these autos of the complaining shipper, Volkswagenwerk, were being carried, that they were carried on charter vessels on, as I recall it, a lump sum basis or a vessel charter hire basis, and that stevedoring was being done on a unit basis and that, therefore, there was in effect no freighting in the ordinary berth term sense, but the recognition was that [129] it was measurement cargo normally for freighting purposes and, in fact, the PMA had for a number of years recognized that there was a special problem apparently about the freighting of automobiles and had established a rule about it in connection with the dues collection.

Q. Now, referring to the other things you mentioned, referring to a discussion of possible ways of effecting savings in auto handling, was there any study, other than the opinion of the committee members, with respect to what savings could be effected? A. We did not make, in the case of autos or any of the four or five other committees that became subject to any specific inquiry, at the committee, any detailed study of the changes in the methods of loading and discharging that could result in manhour savings under the work improvement agreement.

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We did have a representative in our midst who had made such a study, and we were familiar with an operator that had made savings in the handling of autos as compared with what we understood to be the conventional method of loading and discharging autos, and we did not specifically determine whether those methods were applicable here.

Our feeling in general was, as to the assessment in its broad application, that there were opportunities for savings that we couldn't be specific about, and that this in [130] large measure was what people were paying for.

In some instances the savings could be accomplished. In some instances possibly they could not, but, our feeling was that here there was that possibility and, in fact, we were told that there were some steps being taken by the stevedores handling these autos to reduce the number of men they were using, but it was our policy, as I recall it, not to get into the measurement of actual savings or possible savings, as to each commodity.

We had, as I testified earlier, rejected that approach, and so our considerations of possible savings in connection with unboxed autos was just a general thing. It was not a specific study of exactly what the chances were, but we were generally aware that there was an operator who was carrying full loads of automobiles at very substantial reductions in their cost, and under circumstances that would not have in all likelihood been available under the conditions vis-a-vis the union prior to the execution of this work improvement agreement.

Q. And which operator was that? A. Matson Navigation Company.

Q. That is a special vessel that they have for vehicles? A. Yes. I believe it is a regular C-2 or C-3 type vessel, I believe C-3 type vessel, that they did some [131] conversion work on.

I cannot give you all the details of that, except to say that it was a war-built vessel that had been converted.



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Q. In the overall formula recommended and adopted, there is a rate of one-fifth for bulk cargo. Now, basically, what were the committee's thoughts on assessing bulk cargo one-fifth of general cargo? A. Well, this, of course, was a part of the historical traditional tonnage assessment method as had been used for the collection of dues, and there was some discussion about the desirability of keeping that in the formula and, as I recall, there was a view expressed by one member—I forget which one—that that historical exception should not be used here, but that view was not accepted by the committee.

Q. Well, isn't it true that bulk cargo obtains all favorable results of automation, as compared to general cargo or had before this agreement? A. Well, one of the many complications that this committee faced was the fact that there obviously had been changes in the method of stevedoring through the years from the beginning, and it was only because of the pleasures of collective bargaining that the industry was faced suddenly with the demand and insistence that there be some payment made for these changes.

The changes came solely because of the opposition [132] of the union, but there were changes, and the idea of loading a vessel with bulk cargo by essentially gravity methods, essentially, I believe is an old one, and I don't think the industry or the union thought of that as being part of what we were buying here, but that line gets fuzzy as to other commodities, other methods of loading vessels, as to whether they were the sort of things that led to the pressure from the union that finally culminated in this fund, or whether they were something that had been an innovation put into effect long enough prior to this time that the union didn't think it was the sort of thing that had to be paid for.

Certainly the bulk people have had fairly efficient operations, and have had for many years. That is not to say, however, that there weren't new savings that the bulk people couldn't achieve under these conditions. There



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were still excessive manpower used in some of the bulk operations, as I understand.

Q. Now, there was one other change, as I understand it, recommended by your committee that I will ask about, and that is the change with respect to the method of assessing for coastwise lumber. A. Yes.

Q. I believe that is Exhibit 2-F, on page 4.

Mr. Ransom: That is already in the record?

Mr. Madden: Yes.

[133] Mr. Herzfeld: Exhibit 2-F, like in Frank.

Mr. Madden: 4 and 5.

*By Mr. Madden:*

Q. Briefly, what was that change?

Mr. Ransom: I am sorry—excuse me, Mr. Examiner, but I would like to inquire whether he is asking him—what about this coastwise lumber is he asking him, what these minutes said, or which? I don't know.

Are you asking him of his own knowledge about the exception of the coastwise lumber, or are you asking what these minutes say?

Mr. Madden: I am asking of his own knowledge what the changes were with reference to coastwise lumber.

The Witness: Well, as best I recall that situation, there had been for a number of years, apparently, a special penalty payment made by the carriers of coastwise lumber to the longshoremen on a per manhour basis. They had to change their method of operations many years ago, and I believe the change was one, as I understand it, that permitted the crew of the vessels to do some of the work.

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In other words, it was a loss of work opportunity for the longshoremen, and I believe a saving to the operators, by using existing personnel on the vessels who are being paid anyway. In any event, although I don't have all the details of that, it was described to us as being a penalty [134] rate of a dollar per straight time hour and a dollar and a half for overtime hours that in some measure at least was paying for an improved efficiency in the handling of lumber, and the feeling was that the 27½ cents per ton in and out that was being charged under this formula for the work improvement fund was a duplication in part of that penalty payment.

Then there was another problem that I think illustrates that we are in the field of labor relations here. The union, the ILWU, had apparently in its agreement with a non-member carrier, or maybe more than one, I am not clear on that point, established a rate for a contribution for the right of that non-member to have the benefits of the work improvement agreement, and that rate was lower than the rate that the PMA was charging its carriers of lumber.

Well, that to me dramatizes the fact that this is a labor relations type problem, and the PMA had to do something about that, so that also contributed to the decision, as I recall it, but it was made up of both those considerations.

Q. Well, doesn't it also dramatize to your mind the fact that in the method that you assess this against your members, you can and sometimes do effect substantially the rates that are charged to the cargo that is being carried? A. Well, I don't understand this was concerned about [135] the cargo. I understand it was concerned about the carriers, in this case.

*Peter N. Teige—for Complainant—Cross*

Q. Well, it meant, did it not, that the carrier would either have to absorb a loss or perhaps lose business to a competing carrier if you didn't reduce the assessment and yet, at the same time, I believe it is the position of your committee that it is no concern how this money is collected.

You have established a method of assessment, and it is up to the member to raise the money from whatever source he can do so. A. I don't think it is a fair characterization to say that we are unconcerned with the ultimate effect of these assessments.

Q. I will concede that. A. And the committee has spent a lot of time considering those effects, and I cannot equate this rather unique coastwise situation to the unboxed vehicle.

Q. Well, of course, Mr. Teige—

Examiner Theeman: Gentlemen, I hope we are not getting argumentative, now.

Mr. Ransom: Well, I think we have been quite argumentative for a long time, but I think my witness can handle himself.

Examiner Theeman: I note that.

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*Cross-examination by Mr. Ransom:*

\* \* \*

[144] \* \* \* on—I use M&M for mech fund, and I want to make sure that is clear. I don't know which—

Examiner Theeman: We have been using mech fund.

Mr. Ransom: All right.

*Peter N. Teige—for Complainant—Cross*

*By Mr. Ransom:*

Q. —for mech fund purposes, on a measurement basis?

A. Yes.

Q. Did it vary with the make of the automobile at all?

A. No.

Q. Their origin? A. No.

Q. Who the consignee or consignor was? A. No.

Q. And did the committee give any consideration to the possibility of a carrier or stevedore, or anyone, making a change in their traditional method of freighting cargo either from weight to measurement or measurement to weight, in order to avoid or lessen the assessment? A. As a precaution against that, the committee recommended and the Association adopted a rule that the contributions would be based on the tonnage formula as it existed in 1959, which was obviously before we came to a decision about this and, therefore, could not have been affected by the consideration of the impact of the contribution formula.

Q. So that it was the industry pattern prior to the [145] adoption of the plan that it would be used as a base? A. It was the industry pattern in effect in 1959.

Q. And did the committee consider and conclude what the industry pattern was with respect to unboxed automobiles? A. Yes, we were advised that that had been in '59, and before, on a measurement basis, irrespective of the way freighted.

Q. Under the plan, then, as set up, if an individual stevedore carrier or operator of cargo in an FIO situation perhaps makes some contractual arrangements which are not in accordance with the industry pattern, what was the method of determining its assessments? A. Well, we had adopted the industry pattern, and if I understand your question I believe for the great bulk of the organizations and people affected, that pattern worked out, and that was

*Peter N. Teige—for Complainant—Cross*

not to say that there wouldn't be some instances where possibly that industry pattern might not work out.

Examiner Theeman: Would you like to have that question read back to you?

The Witness: I think I understand the question. Maybe I am having trouble—

Mr. Ransom: I am satisfied with the answer.

The Witness: —answering.

Mr. Ransom: Very good.

[146] *By Mr. Ransom:*

Q. After you were appointed the second time, Mr. Teige, and after you had given some consideration to the various proposals, did you issue a bulletin or memorandum to the members asking for ideas from various people? A. Yes. On May 15, 1961, the committee sent to all PMA members a letter which pointed out that the committee was continuing to study the fund and the method of assessment, and that it invited suggestions and proposals from the members on any other basic methods of contribution that might be used.

Mr. Ransom: May we go off the record while I get this document?

Examiner Theeman: Off the record,  
(Discussion off the record.)

Examiner Theeman: On the record.

Without objection, a letter dated May 15, 1961, from PMA to its members, is admitted in evidence as Exhibit 45.

(The document referred to was marked Exhibit No. 45 and was received in evidence.)



*Peter N. Teige—for Complainant—Cross*

*By Mr. Ransom:*

Q. Before, Mr. Teige, considering the vastness of this program, did you receive many protests to the position taken by the committee to adopt the tonnage basis for assessment? [147] A. There were two times that protests came to the committee basically. The first was immediately after the initial decision was taken by the membership on January 4, 1961. Considering the thousands of types of transactions that were being affected and the hundreds and hundreds of commodities, many dozens of operators of various types, and in various kinds of operations, the committee thought it was quite remarkable that there were really only half a dozen situations that a vote came in.

The Volkswagen complaint was made by a number of parties, as I have indicated. The scrap metal point which was raised almost immediately and corrected almost immediately, the coastwise lumber problem which we have mentioned, and then there was a complaint by the stevedores handling bananas, and it was their hope that bananas could be treated for assessment purposes as bulk cargo.

They pointed to the fact that the bananas were now typically unloaded on conveyor belts, that they were not packaged or boxed, that they were not marked, and that they had met certain of the requirements at least of all cargo.

That request was rejected by the committee, and that rejection was affirmed by the board of directors, the feeling being that this was a breakbulk type of operation in the first place, and I think there were also some feelings that here certainly was an operation that certainly stood a [148] good opportunity of making a saving under the fund, so from that standpoint, also, there was merit in rejecting the decision, but basically it was an application of the historical industry pattern to that commodity.

*Peter N. Teige—for Complainant—Cross*

Q. Were there any other protests that were considered and rejected? A. I was going to mention two more. The Army had a complaint about both its conex containers and the assessment of autos. I have mentioned the autos.

Q. I don't think you have explained what happened to the autos in the Army. Would you do that? A. Well, they raised the question of whether it was appropriate to assess the autos on a measurement basis, and consistent with the position that the committee took on that issue they were informed that it was, that we were going to treat the Army in the same exact fashion that we treated the commercial operators, and they seemed satisfied with that or, in any event, we heard nothing more about the auto complaint.

The container matter I won't go into here unless someone wants me to, but that was also resolved with the Army, and then there was one other complaint that comes to my mind, and that was a complaint of Isbrandtsen Steamship Company, and I believe also their stevedore, but those stevedore complaints generally just come in along with their [149] customers' complaints.

In any event, it was a complaint raised by Isbrandtsen who were, as I understand it, starting a ten-ton container operation between the Pacific Coast and East Coast of the United States by way of Puerto Rico, and they were planning to load the ten-ton containers with edible rice in bulk, not in bags, for carriage to Puerto Rico.

They argued at some length—we had written presentations, and we had also asked Mr. Krabbenschmidt, I believe—he is their local manager—to appear before the committee so that we could learn more about this and question him about it.

They requested that the bulk rate of five and a half cents be applied to this edible rice. This apparently, on the theory that since it could be carried in bulk at that

*Peter N. Teige—for Complainant—Cross*

rate, that even though they weren't carrying it in bulk, it should nevertheless bear the same rate.

The committee wrestled with that question, as I recall it, at two or three meetings, and finally recommended that this request be denied, and that was affirmed by the board of directors.

My recollection was that the committee felt that if rice is in bags, it is breakbulk cargo and would bear the general cargo rate, and putting it in a bigger container, in this case a ten-ton container, still made it breakbulk cargo.

[150] Now, it wasn't, unless they were prepared, and in a position to have it shipped as bulk cargo, that they would bear the bulk rate.

That decision I don't believe was too happily received by the applicant, but we did give it our fullest consideration, and the entire committee voted against their position and, as I say, it was affirmed by the board of directors.

I think those are all of the complaints that have been registered against the plan, and now our committee is still in being and available for further complaint, but now more than two years later these have been the complaints we have received.

Q. You indicated in your examination by Mr. Madden, and as indicated by Exhibit 44, that sometime in February there was consideration of the committee on the question of automobiles, as to whether they should be on a measurement basis or what they should be on, and turned down.

Did your committee at a later date receive any requests from Volkswagen or its stevedores for a reconsideration? A. There was such a request, and in November of 1961 it was arranged for the Volkswagenwerk people to appear before the fund committee. That meeting was arranged, as I recall it, either at the request of, or at least in friendly [151] arrangement with Mr. Peter Curtis of Winchester Agencies, Inc.

*Peter N. Teige—for Complainant—Cross*

Q. That is the gentleman sitting over there? A. Yes, and he had advised that on November 24th a Mr. Klaffs of the Volkswagenwerk in Germany was to be in town and available for this meeting.

Q. As I recall, it was the day after Thanksgiving. A. It was November 24, 1961.

Q. And will you tell us generally what took place at that meeting and what was discussed? A. My recollection is that our committee was well attended. Mr. Curtis was there, Mr. Klaffs of Volkswagenwerk, Mr. Calhoun who was then their attorney in this matter, and I believe there were representatives of some of the stevedores on the Pacific Coast who handle the Volkswagenwerk. It was an extended meeting, and my recollection is that Mr. Klaffs himself presented their position and presented it very well.

And there was a general discussion of the problem. It is my recollection that Mr. Klaffs' concern—I hesitate to say his major concern, but a concern which is the one I best remember him discussing was as—was that this assessment would embarrass Volkswagen in their competitive fight with other compact cars.

He told us that this was a very competitive market, and that they were concerned about their competitive position [152] as a result of this assessment.

Q. Did he indicate any figures along that line? A. Well, the assessment, as I recall it, is something over \$2.00 per auto.

Q. And Mr. Klaffs thought that \$2.00 would have some effect on the competitive sales of their automobiles. Is that what you are saying? A. My recollection is that he said it would have, and obviously would to some degree; the question would be the degree.

Q. Well, now, did the committee make a decision at that time and advise Mr. Klaffs of what its decision was, or did the committee subsequently meet? A. The com-



*Peter N. Teige—for Complainant—Cross*

mittee, according to my records, met on November 29th, on December 8th, on December 12th. I believe that this subject was discussed to some degree at all or some of these meetings, and it was decided to reject the protest.

I believe again this was the unanimous feeling of the committee, and on November 14th the board of directors had before them again this subject of the unboxed auto assessment, and they again approved the existing program.

[156] Q. Mr. Teige, frequently in this hearing there has been the expression "berth term" or "berth operators." Under what is called berth terms, who hires and pays the stevedores? A. The carrier.

Q. When cargo is shipped on an FIO basis, what does that mean? And who hires and who pays the stevedores? A. When cargo is shipped FIO, that is free in and out, the loading and discharging costs are borne by cargo rather than the carrier, and the ocean freight rate is solely for carriage.

Q. Can you state whether the preponderance of general cargo in and out of the Pacific Coast is on berth terms, or on FIO basis? A. The preponderance—talking about revenue tons—is I believe on a berth term basis. In 1959, the Pacific Coast, through the use of ILWU labor, handled in the neighborhood of 25 million, over 25 million tons, of which 17 million were general cargo and eight million bulk cargo. The bulk cargo would be most frequently on a basis where the shipper would pay for the loading, although not always. The general cargo would in most instances be on a berth term basis, though not always.

Q. Automobiles are general cargo, are they not? [157] A. Automobiles are general cargo and, of course, I said in most cases, and here we have an instance where there is an exception to that, where you have a cargo that is or



*Peter N. Teige—for Complainant—Cross*

has been commonly berth term cargo carried on an FIO basis.

Q. You are referring to the Volkswagen? A. The Volkswagen.

Q. FIO arrangement? A. Yes.

\* \* \*

Q. Is it your understanding that Volkswagen is shipped primarily on an FIO arrangement? A. Yes, that is my understanding that the shipper, Volkswagenwerk, directly engages the services of the stevedore, at least at this end, for the discharge of the automobiles.

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[158] Mr. Madden: It is stipulated that for the past five years the preponderance of Volkswagens which have been brought to the Pacific Coast have been brought in under charters, or on the contractual FIO arrangements.

\* \* \*

[161] Mr. Teige, have you made a review and can you state whether, following the M&M fund plan in the conferences that you belong to that affect the West Coast longshore labor, that are concerned with West Coast longshore labor, increased their rates to reflect the M&M or the mech fund assessment to the extent those assessments were passed on by stevedoring companies? A. I believe I am safe in saying that no conference that I am familiar with on the Pacific that had a terminus on the Pacific Coast—that would be both outward and inward conference—made any freight rate changes based on this assessment, the problem being that these rates are determined by competition in the sense that there are frequently carriers who operate outside of these conferences; and that has been particularly true in recent years with the overtonnaging of world shipping, and the result has been that many of these conferences have been reducing rates rather than increasing rates.

*Peter N. Teige—for Complainant—Cross*

But I know of no conference that increased its rates because of this assessment. That is not to say that they wouldn't like to or that they won't some day do that, because obviously, in the end, if they are going to stay in business, the carriers have to pass on all of their costs from whatever source, and a little more for a profit.

Q. Mr. Teige, if the M&M plan is successful, there [162] would be no need to pass on M&M fund assessments to the extent the carriers got it, would there, because you would presumably have some advantages. A. That is a good point. I should have talked in terms of any net cost, and I think you can get a lot of argument in the industry as to what the savings have been that have flowed from this agreement.

There are many that you can actually put your finger on, but it would be difficult overall to say where the balance sheet is now between the outflow for contributions and the inflow for savings, but that is very true, that the net cost may be industrywide negligible, but that is industrywide and not on an individual basis.

Q. From your knowledge of the plan and its operation, both as an operator and a committee member, was there any agreement among the PMA members or between the members, or with PMA and the Association, that the contributions paid by the direct employers would in turn be paid to them by their customers? A. No such agreement whatsoever.

Q. In APL's case, what happened to your stevedoring arrangement after the M&M fund went into being? A. Very shortly after the assessment began and the work improvement agreement went into effect, and you could start making efforts to achieve savings under the agreement, [163] we put our San Francisco stevedore on a cost-plus basis, as an emergency measure, to assure that any savings that came from his change of operations would accrue to us immediately.

*Peter N. Teige—for Complainant—Cross*

Prior to that, our rates were on a commodity rate basis, and unless those rates had been all renegotiated, why, we would have gotten no benefit from the saving. That arrangement, as I say, was an interim one, and since that time these rates have been put back on a commodity basis which would, as is usually the case, reflect the negotiations between the stevedore and the carrier, as to the appropriate charge for loading and discharging of those commodities, taking into account the expense of that work.

Q. In the cost-plus arrangement, would the cost-plus—would the cost include a listing of such things as welfare plan, PMA dues, pension plan, and possibly the M&M fund?

A. Yes, it would include all of the labor costs, and I would include the M&M assessment as a labor cost, all of the labor costs of the stevedore.

Q. Was there any agreement among PMA members, or with PMA, that if the stevedore company's assessment was passed on to the carrier, that the carrier in turn would pass the amount on to their customers? A. No, of course not.

Q. If the stevedore could choose all or a part of the M&M fund, would he be in breach of any arrangement or [164] understanding? A. None whatsoever. He would be perfectly free to do that if he was able to do it, or for business reasons thought that desirable.

Q. If the stevedore could or did not make its contributions as assessed to the M&M fund, would he be in any violation of any agreement with the union? A. Yes, the stevedore, as an employer, has in each case executed or had executed for him on his behalf an agreement with the ILWU that includes a provision that the contributions to the mechanization fund must be paid on the basis determined by the Association, so it has an obligation in the collective bargaining agreement.

*Peter N. Teige—for Complainant—Cross*

Q. Mr. Teige, you spoke of these conferences as rate-making conferences. Do you put the Pacific Maritime Association in that category? A. Certainly not.

Q. Suppose that the Federal Maritime Commission for some reason, which I can't conceive of, were to hold the assessment against Volkswagen as somehow or other illegal, what effect do you think that might have on the plan?

A. Well, one can speculate about that, that the basis of their complaint has to do with the relationship of the labor cost, as related to the assessment. There is a whole spectrum of relationships of that kind in the industry, [165] involving not only every commodity which has a different relationship of labor needed to move it, as compared with the assessment, but different between each operator, because one operates one way, and one another, and one more efficiently and one less efficiently, and so on.

So there would be a vast inquiry, if everybody were to come either to the PMA or to hopefully the FMC, so that we wouldn't have to deal with them to litigate about exactly where each operator, as to each commodity, would fit into that spectrum.

There would just be a part of the picture, because it doesn't seem to me you can leave out the question of the benefits that potentially, at least, might be available to each operator, and if that is thrown into the picture then it further compounds the matter, and I honestly believe, after having spent many, many hours and days on this perplexing subject, that that would create a very serious situation for whoever it was that had to wrestle with the decisions that would flow from that turn of events.

Mr. Ransom: That is all.



*Peter N. Teige—for Complainant—Redirect**Redirect examination by Mr. Madden:*

Q. Mr. Teige, you mentioned I believe that autos are a measurement type cargo. You were speaking about that from the standpoint of a steamship company operator, were you [166] not, at least for rate-making purposes? A. Yes, there isn't any other basis that I know in which to use that expression.

Q. Measurement tons normally are not any basis for a stevedore to fix his rates, are they? Do you know, or are you able to speak on that subject? A. Well, I know generally about the stevedore business. My understanding is that many stevedores charge for their services on a revenue ton basis, and, therefore, if a certain cargo is on a measurement ton then he will have so much a ton, based on a measurement ton.

If it is a weight ton, he will have a charge of so much a ton, based on a weight ton.

Q. But basically isn't it the time it takes to handle a particular cargo that controls the stevedore's rates? A. Well, there is no question about it, that in deciding how much to charge per ton, whatever basis it is on, the stevedore looks to his cost, and his cost would be made up of all the things that a stevedore's costs are made up of, primarily labor, because he is basically a labor contractor.

Q. If he makes it up on his cost, then he may convert those costs against cargo on a measurement ton or on a weight ton basis, either way that he sees fit. Is that what you mean when you say that he could use either term? A. I think that he could charge for his services on [167] any basis that he works out with his customer, and there are many, many ways it is done. The most common way I have always assumed was on a commodity rate basis.

Q. But taking the example that Mr. Ransom gave you, if he were handling lead and he knew how many hours it took to handle the lead, he could readily enough, I assume,



*Peter N. Teige—for Complainant—Redirect*

convert those hours into a rate on a measurement basis, could he not, if that would net him the same amount of money as if it were a weight basis? A. I see no reason why either a stevedore rate or a freight rate can't be put on either basis. It just changes the amount.

Q. And as in the case that we are talking about in this proceeding, there is no reason why he can't be on a unit basis if the unit is an appropriate measure of converting the hours into compensatory rate? A. Well, by no reason, you mean that that is a logical—

Q. That is right. A. —and a conceivable way of doing it?

Q. Yes. A. That is right, I think stevedores do charge on a unit basis for cargo like automobiles.

Q. And you mentioned also about the industry pattern in 1959, as manifesting autos on a measurement basis. Are [168] you familiar with an industry pattern, as such, or were you referring to the pattern that the PMA had adopted as its pattern for its assessment of dues? A. When I used the expression industry pattern, I was talking about the PMA method of assessment for its dues, the tonnage portion of its dues assessment.

Q. Now, in the original adoption of the assessment plan, it was specifically provided that your committee would review the effect of the assessment within six months, and periodically I assume thereafter, and you testified that you had sent out this notice asking for suggestions as to the—I suppose I ought to refer to the letter, Exhibit 45—you requested as an aid to your work that any PMA member who has a proposal to make for a new or improved method of assessment for the support of this fund should set forth their views in writing to the committee as promptly as possible for its consideration of such a proposal.

Do I take it that the committee was only to consider new overall methods of assessments, or did you feel that it was your duty to consider whether certain exceptions

*Peter N. Teige—for Complainant—Redirect*

might be appropriate to the method that you had already adopted? A. Well, I think that we felt we had both responsibilities. The fact that we, on the one hand, did discuss the whole problem as a general thing, including a consideration of a plan suggested by the Matson Navigation Company, [169] the details of which escape me now, but it was a general plan, and also at the same time during this same period, we went through the procedure with Volkswagenwerk on their specific request for an exception to the present formula, and it was during this period that we considered that problem that had culminated in the meeting of November 24th.

Q. Well, that was the question that I really wanted to bring out. I think you have answered it. Your committee would, if they felt it was appropriate, recommend an exception if they felt it was inequitable, an exception rather than an adoption of an entirely new program? A. Our committee—

Q. In other words, to put it specifically, would you have considered it within, would you say, duties— A. Scope.

Q. Scope of your committee, if you thought that the vehicles should be assessed on, for example, a unit basis, that it would be appropriate for you to recommend such an exception to the Board, or would you consider that beyond the scope, that it would have to be an entirely new method of assessment that applied to all cargo? A. No, we considered it part of our job to re-examine what we had already done on any specific details, and again I give as the prize example of that the Volkswagen situation where we held a number of meetings and spent a good deal of [170] time going over that problem, and finally had to vote and resubmit our vote to the board, so that that got full consideration both by the committee and by the board of directors.

Q. And the other prize example of the coastwise lumber that you felt was entitled to relief— A. Yes.

*Peter N. Teige—for Complainant—Redirect*

Q. I believe you mentioned that your committee was surprised, perhaps just pleasantly surprised, that there weren't more suggestions or complaints at the end of six months from more types of cargo; that was your statement, wasn't it? A. Yes, and to—

Q. Well, I didn't mean for you to elaborate on it. I didn't want to misquote you.

Did you think perhaps that this might have been because your method of application had only ended in assessment that hit just these particularly few complainers, or did you think the rest were just silent? A. I can only speculate about that. It is my personal view that there was a general recognition of the complexity of the job that had been given the committee, and that it had in good faith and conscientiously tried to reach a plan that we could live with, and that it had done that in the main, and that people recognized that it had [171] done that.

Q. Well, for the record, I would like to say, Mr. Teige, that I wouldn't for the world question that you were doing the very best you could. A. You are just wondering if that best was good enough.

(Laughter.)

Q. No, we just disagree with it.

If the facts were that there were only a few complaints, not only at this time, six months later, but apparently very limited for over two years that the plan is in effect, how does that jibe with your concern that if relief were granted in one particular case, that would open up a whole spectrum of complaint from cargoes that you had never even heard from? A. Well, I say that because it seems to me that the basis on which relief is being requested here is such that once that section were established in that one case, then there would be a multitude of people who will say, "Me, too, if that is the game going to be played I want to get

*Peter N. Teige—for Complainant—Redirect*

in that game, and I will make the same sort of complaint. I didn't get anything out of this fund." Or, "I am paying more than the next fellow, and I do it this way, and he does it that way," and so forth.

I think people who have had those feelings have [172] restrained themselves in the interest of an overall workable program that they consider worth while, but I am not sure they would if they saw relief granted on that principle.

Q. You stated that to the best of your knowledge the carriers who operated on berth terms had absorbed all increases, if any, that might have resulted from the mech fund assessment on their contracting stevedores, is that correct? A. At least at the time that happens. Now, there have been in recent months a few conferences that have been able to raise their rates, and then you begin to be unable to say that because obviously, when there is a general five per cent increase of rates, it is to cover the rates that the carriers are concerned about, and this might be one of them from the standpoint of cost.

Q. If an FIO non-member's assessment, or the assessments on his contracting stevedore was reduced, that would necessarily tend to increase the ultimate cost that the member carrier might have to bear in the long run. Wouldn't you say that was a correct conclusion? A. I wonder if you would read that question to me.

(Record read.)

The Witness: Any reduction of anyone's assessment will increase everybody else's—

[173] *By Mr. Madden:*

Q. I will accept that. A. —for the reason that this is a lump sum that has to be raised.

\* \* \*

*Fred R. Smith—for Complainant—Direct*

Mr. Ransom: I think there might be some possible confusion as to what was meant by everybody else's, and I would like to ask him to explain what he meant by everybody else's.

*Recross-examination*

The Witness: Well, what I meant to say was that if any PMA member's contribution is reduced, it increases the contribution of all other PMA members. I did not mean to suggest that any non-member of PMA who is not participating in this program and fund would be involved in that contribution.

And when I say a member's contribution, that, of course, could be a contribution made by a member stevedore with respect to work performed for a non-member carrier or a [174] non-member shipper, if it were an FIO arrangement.

\* \* \*

[176] Whereupon, FRED R. SMITH was called as a witness by and on behalf of the Complainant and, having been first duly sworn, was examined and testified as follows:

*Direct examination by Mr. Madden:*

Q. Would you state your full name, Mr. Smith. A. Fred R. Smith.

Q. And what is your occupation? A. I am president and general manager of Seattle Stevedoring Company.

Q. And that is in Seattle? A. Washington.

Q. Are you an officer or a member of the board of PMA, Pacific Maritime Association? A. Yes, sir, I am a member of the board of directors of the Pacific Maritime Association.



*Fred R. Smith—for Complainant—Direct*

[177] Q. I take it that you are a representative of the group designated as a stevedoring group? A. Yes, sir.

\* \* \*

[178] Q. Do you discharge Volkswagens in the Seattle area? A. Yes, sir.

Q. And who employs you? A. In this particular case, the Volkswagen company.

Q. Do you discharge Volkswagens for anybody else? A. Oh, yes.

Q. Who else? A. Hanseatic Vaasa Line, and some other lines, and other berth liners that haul Volkswagens, of which these contracts are direct with the steamship company.

Q. Upon the adoption by the Pacific Maritime Association of the method of assessment for the mech fund, did you ever protest to the PMA as to the impact of that assessment on Volkswagens? A. Yes, we did. It is a matter of record with the PMA.

Q. Did you advise PMA directors that it was impossible for you to pay that assessment with the rates that you obtained for discharging Volkswagens? A. I believe our letter indicated with rates that we [179] then had, we could not absorb assessments as set out by the funding committee.

\* \* \*

Q. Without being specific, about how much approximately did the mech fund assessment, if added to your rate, increase the total amount of that rate? A. It varied from 20 to 50 per cent, I would say. Again, that is only from observation, and not from an accounting standpoint, just general.

\* \* \*

*Fred R. Smith—for Complainant—Cross*

[180] *By Mr. Madden:*

Q. Is there any cargo which you discharge, the cost of which is increased in as great a percentage as the cost is increased for Volkswagens by reason of the mech fund assessment? A. No, sir, there is no commodity with that percentage [181] of increase.

Q. Have you any idea about what type of cargo would be the closest percentage? A. Again, in round figures, I would say from four to ten per cent.

\* \* \*

[183] Q. How does the volume of all automobiles that you handle in your port compare to the number of Volkswagens that you handle? A. I would say Volkswagens were approximately 75 per cent of all the foreign cars delivered in our area.

Q. Since the mechanization program went into effect, have you been able to reduce in any way your expenses for discharging Volkswagens by reason of the latitude given waterfront employers under that agreement? A. No, sir.

Q. Have you been able to plan or do you anticipate that you will be able to develop any such improvement in the foreseeable future under the latitude granted you? A. Not to my knowledge. I cannot see at this time such an arrangement.

\* \* \*

*Cross-examination by Mr. Ransom:*

[192] Q. In handling Volkswagens in connection with common carriers on berth terms, have you made the assessments into this fund? A. Into the PMA fund?

Q. Yes. A. We have paid it into PMA for the fund. I assume they fund it in there, yes, sir.

\* \* \*

Q. Have you paid into the fund, paid into the PMA for the fund assessments in connection with your FIO arrangements with Volkswagenwerk? [193] A. No, sir.

*Ellet G. Horsman—for Complainant—Direct*

Q. Are those the only assessments which are outstanding as far as your company is concerned? A. We have a 90-day time of collection of the payment to PMA and, to my knowledge, we are current.

Q. Except for in connection with Volkswagens? A. Right.

Q. Is your contract with Volkswagenwerk as a cargo owner or as a carrier? A. We have a contract with Volkswagen to discharge automobiles for so many dollars per unit, whether they be a contract cargo carrier, a charter or owner, or anything else. We don't go into that. We have a contract to discharge so many for so much per unit.

Q. Could you give us the exact name of the company with whom you have that contract?

I am sure you will have to spell it. A. Volkswagen, V-o-l-k-s-w-a-g-e-n-w-e-r-k, A. G.

\* \* \*

[202] Whereupon, ELLET G. HORSMAN was called as a witness by and on behalf of the Complainant and, having been first duly sworn, was examined and testified as follows:

*Direct examination by Mr. Madden:*

Q. For the record, will you state your full name. A. Ellet G. Horsman.

Q. And your position? A. Vice-president, Marine Terminals Corporation; vice-president, Marine Terminals Corporation of Los Angeles.

Q. Those are two separate corporations, are they? A. Yes, sir.

Q. Are they affiliated in any way? A. Same directors, same stockholders.

*Ellet G. Horsman—for Complainant—Direct*

Q. What businesses are those two corporations engaged in? A. Contracting stevedores and ocean terminal operators.

Examiner Theeman: And what kind of terminal operators?

The Witness: Ocean.

[203] *By Mr. Madden:*

Q. And who do you perform this work for in general?

A. Both common carriers and contract carriers, and all forms of marine transportation, both by vessel or barge.

Q. Do you discharge Volkswagens? A. Yes.

Q. In San Francisco and Los Angeles? A. San Francisco and Long Beach, yes, sir.

Q. Long Beach? A. Yes, sir.

Q. The ones in San Francisco are discharged by Marine Terminals Corporation? A. Yes, sir.

Q. And the ones in Long Beach by Marine Terminals Corporation of Los Angeles? A. Los Angeles.

Q. How long have you been discharging the Volkswagens? A. The first vessel was in 1954 in San Francisco at Pier 39. The name of the vessel was the VAASA LAVIA.

Q. Was that vessel on the Hansiatic Line? A. No, she was then owned by the Lavia-oy. She was serving independent from any line. I believe that was before the formation of the Hansiatic Vaasa Line.

Q. Since then, have you discharged Volkswagens for common carriers? [204] A. Yes, sir.

Q. Both in San Francisco and Los Angeles? A. Yes, sir.

Q. And also for chartered vessels? A. Yes, sir.

Q. Now, in the case of common carrier vehicles, who contracts with you for your services? A. The owner, through his agent or representative.

*Ellet G. Horsman—for Complainant—Direct*

Q. You mean the owner of the vessel? A. The owner of the vessel, yes, sir.

Q. In the case of chartered vessels, whom do you contract? A. On Volkswagens?

Q. On Volkswagens. A. In the case of Volkswagenswerk, we deal directly with the factory, with Wolfsburg, Germany, and our contractual arrangement is a stevedore work order on a ship to ship basis, assigning us the performance work.

\* \* \*

[205] Q. When you referred to work order, Mr. Horsman, is this the type of work order you received from Wolfsburg on chartered vessels? A. Yes, sir.

Mr. Madden: I offer this in evidence as Exhibit 51.

Examiner Madden: Without objection, the work order referred to is admitted in evidence as Exhibit 51.

(The document referred to was marked Exhibit No. 51 and was received in evidence.)

*By Mr. Madden:*

Q. According to the work order, Mr. Horsman, there are some—strike that—there appears in the left lower portion of the order a provision that says that all work services to be rendered for an eight-hour day only, at the commodity rate of blank dollars per vehicle to place of rest on dock, i.e., including handling; and above that there are listed three different types of vehicles, 707 sedans and convertibles, 75 transporters, 18 Ghias. Was the rate per vehicle the same for all those types of vehicles? A. Yes, the rates are the same regardless of what type of vehicle it is, as far as Volkswagens go.

\* \* \*



*Ellet G. Horsman—for Complainant—Direct*

[213] Q. In Exhibit 7, which is the letter from Winchester Agencies to Pacific Maritime Association, dated January 17, '61, at the top of page 2 it is stated that—

Mr. Zimmerman: Pardon me, what was the exhibit number?

Examiner Theeman: 7.

Mr. Madden: 7.

*By Mr. Madden:*

Q. It is stated that the current—that would be the [214] January '61—discharged cost of a shipment, assuming approximately 50 per cent Volkswagens and 50 per cent transporters, would be about \$10.45 per auto. Is that approximately your— A. Yes, sir.

Q. —recollection of that charge at that time? A. Yes, sir.

Examiner Theeman: Let him finish the question, please, Mr. Horsman.

*By Mr. Madden:*

Q. Is the present average cost of discharge per auto—does it vary more than, say, 40 cents from this cost?

Mr. Ransom: Mr. Examiner, may I ask that we define what he is talking about? Is he talking about the cost of the Volkswagen; in other words, the commodity price; or is he talking about the cost which Marine Terminals undertakes, to which they would add the cost?

*By Mr. Madden:*

Q. Is that the average commodity price which you charge Volkswagen?

*Ellet G. Horsman—for Complainant—Direct*

Examiner Theeman: Your question refers to Exhibit No. 7?

Mr. Madden: Yes.

Mr. Zimmerman: Now, I would like to interpose an objection to any further questioning along this line. As I [215] understand, the purpose of this testimony was simply to establish that it was necessary for Marine Terminals to reflect these assessments in its commodity rate, so that ultimately they would be paid by Volkswagen.

I don't believe that there is any question that that is so.

Mr. Horsman has testified that these costs must be reflected because they operate on a cost-plus basis. Now, what the actual amounts are I believe is irrelevant. The costs and commodity rates in the stevedoring industry are highly confidential.

Unless there is some compelling reason for getting those figures on the record, I would object to any further questions along this line.

Mr. Madden: Well, one of the fundamental complaints set forth in this proceeding on the part of Volkswagen is the percentage increase in the cost of discharging Volkswagens, which inevitably results from the imposition of this assessment charge on top of the pre-existing charges, and if we don't have the pre-existing charges there is no real basis for us to show what the percentage of increase is in this proceeding.

Mr. Zimmerman: You have on the record a statement of what the costs were at the beginning of the mechanization fund. In the absence of any evidence to the contrary, that [216] gives you your percentage. I don't know as it is necessary to go into details of later costs.

Mr. Madden: That solves one thing.

*Ellet G. Horsman—for Complainant—Direct*

Now, another element of proof of Volkswagen is that there have not been effected any material savings in the handling of Volkswagens since the introduction of these mechanization systems, and if we cannot show whether the rates are approximately the same now as they were before, or the variations in the rates, we have at least one source of such proof barred from us.

Mr. Zimmerman: We have no objection to questions as to whether they have been able to effect any savings.

Examiner Theeman: It would seem to me, gentlemen, that at the moment, insofar as any testimony to be adduced deals with the figures already in the record, you therefore should have no objection to them.

Mr. Zimmerman: The figures already in the record?

Examiner Theeman: That is right.

Mr. Zimmerman: He has asked an additional question about current costs.

Examiner Theeman: I haven't heard any questions yet dealing with current costs.

Mr. Madden: I was leading up to one, Mr. Examiner, when this discussion started.

Examiner Theeman: You were leading to it, but I [217] hadn't heard it yet.

Mr. Zimmerman: Well, it was my understanding that he had asked the question about current costs, and that was the question to which I directed my objection.

Mr. Ransom: It was at that point that I asked about current costs, and he said he meant commodity rates.

Mr. Madden: That is true.

*Ellet G. Horsman—for Complainant—Direct*

Mr. Zimmerman: I have no objection to Mr. Madden questioning Mr. Horsman about any rate to be assessed under the mechanization fund.

Mr. Madden: Basically, this is a question of an alleged confidential matter with rates as it applies to these particular sets of circumstances, but I can't see how this confidentiality enters into the testimony that is given at this hearing on what the rates charged for the discharge of Volkswagens by the Respondents are, and what they would be with the imposition of the cost of the assessment.

Examiner Theeman: Let's go off the record.  
(Discussion off the record.)

Examiner Theeman: Let's go on the record, please.

*By Mr. Madden:*

Q. Since January of 1961, have there been any substantial increases in your gang hour costs for handling Volkswagens? A. Other than the wage increases?

\* \* \*

[219] Q. During this period, were you able to increase the productivity per gang hour in the handling of Volkswagens? A. The productivity—

Q. Rate per gang hour. A. I believe we did from 1961; through better vessels, we were able to increase our production.

Q. And when you say better vessels, what does that mean? A. Frankly, that is the key to this whole thing, the vessel, because the ship gang controls the production and not the dock gang, and as the vessels improve, in other words, McGreggor hatches or pontoons, special decks for the securing of automobiles on the vessel itself, the gear on the vessel is the key to the production of automobiles.

*Ellet G. Horsman—for Complainant—Direct*

Q. That makes it easier to remove the vehicles from the vessel? A. Yes, sir.

Q. Is that what you are saying? A. Yes, sir, and the easier it is the more cars an hour they put out.

Q. Short of the improved rate, by reason of improved vessels, have there been any other methods of handling vehicles which would increase the rate of productivity?

[220] A. I am sorry, what do you actually mean?

Q. Anything— A. In the form of a machine or man-hour, or—

Q. Any mechanical devices—I am talking about mechanization or work improvement practices which would reduce the number of gang hours needed for handling Volkswagens. A. We use the chain gang structure on the vessel we did when we first handled the cars in 1954. Now, I say the key to the unloading of Volkswagens or any other automobile or any cargo is the ship's gang which is separate from a dock gang, but as far as the ship goes there hasn't been any change in gang structure.

\* \* \*

[223] Q. Assuming that a commodity is greater in volume on a measurement basis, on a measurement ton basis, than on its weight for the freight making purposes, it could be manifested, could it not, on a weight basis, but at a higher rate, to reflect the extra volume? A. I would think that they would.

Q. So that how it is manifested has little to do with the problems of a discharge or a loading operator? A. That is correct.

Q. Is that correct? A. That is correct, sir.

\* \* \*

[224] Q. Referring back to this average cost in '61 of approximately \$10.45 per unit, or a rate of discharge of \$10.45 per unit, in computing such a rate what do you as a



*Ellet G. Horsman—for Complainant—Direct*

stevedore expect to receive over and above your costs?

A. Direct costs?

Q. Over and above your direct costs. A. Profit?

Q. Including profit.

Mr. Zimmerman: I think I might—the profit margin, again, I think is a confidential item for a stevedore contractor. If Mr. Horsman is able to give some sort of a round figure which will satisfy Mr. Madden, that might not be objectionable, but I don't believe he should be asked to state what his—

Mr. Madden: A range.

The Witness: Over our direct cost, we put it on so many dollars a gang hour, ranging from 12 to 15 dollars [225] a gang hour, depending on the location and depending on the operation.

Now, on this particular case of the 1045, I don't know what we used as our overhead gang cost, but it ranges between 12 and 15 dollars, and that is to take care of equipment, supervision, administration, and return on investment.

Now, to arrive at a cost per car, then you just divide the number of cars you are doing an hour into that gang cost, and you come out with less than a dollar a car, and this is the general practice of all stevedores.

*By Mr. Madden:*

Q. In other words, in this rate you certainly would not expect to be able to recover as much as a dollar a car for your profit? A. We would be very happy when the operation turns out so that we recover a dollar a car over our direct expenses.

*Ellet G. Horsman—for Complainant—Direct*

Q. Now, if sedans are assessed on a measurement ton for the mech fund purposes, do you know how much per car that amounts to? A. On a measurement basis?

Q. On a measurement basis.

Mr. Zimmerman: Isn't that in the record?

The Witness: I should know.

[226] Mr. Madden: I am sure it is, but I am—

The Witness: May I say approximately?

*By Mr. Madden:*

Q. Surely. A. \$2.75 to \$3.25. On sedans—

Q. Yes. A. —it is about \$2.70 or so.

Q. I will remind you it is probably somewhat less than that. A. \$2.40 maybe.

Q. In any event, it is between two and three dollars, you will say? A. Yes.

Q. And I think the record will bear this out. For the transporters— A. It would be more.

Q. It would be more? A. It would be up in the \$3 range.

Q. So that assessment alone is greatly in excess of anything you would hope to recover in the average rate that you were charging Volkswagen in 1961? A. We couldn't absorb that assessment.

Q. And I will repeat, then, since 1961 have you found any mechanization or work improvement method by which you could effect savings which would permit you to realize [227] savings, permit you to absorb this assessment? A. Our gang structure is approximately the same today as it was in '61. On the ship it is exactly the same. On the dock, as I say, we put men or take men off as we see fit, depending on where we are going to park the cars, but that is an operational problem which we have always had the right to do.

*Ellet G. Horsman—for Complainant—Direct*

Q. Do you handle any cargo in which the increased cost per gang hour is as greatly affected by the mech fund assessment as automobiles? A. Not in volume, I don't think.

\* \* \*

[229] Q. Do you see the manifests of the members? A. I have seen them, but it is not a practice for us to have them in our office. It is a practice for the steamship company to break down the tonnage in his own office, giving the stevedoring company a certified copy of the tonnage based on the stevedoring contract that he may have.

Q. You in effect rely entirely upon the report that you receive from the steamship company in making the report to PMA, as to whether the cargo is reported on a weight or a measurement ton basis? A. Yes, sir.

Q. In performing your services aboard the vessel and on the docks, do you have any special equipment to handle Volkswagens? A. Yes.

Q. What is it? A. It is a patent bridle device that picks the car up from the hold or the 'tweendecks of the vessel to the dock. It protects the car and gives the car greater protection from damage, and it is a device that has improved to a certain extent the production.

Both Volkswagen manufacturers have manufactured this type of gear, and they furnish to their stevedores this equipment.

[230] Q. Do you purchase it? A. We purchase it.

Q. It is your equipment? A. Yes.

Q. How long have you had this? A. I would say four years. There have been several changes in the period of four or five years, but we have had the present one about three or four years.

Q. Now, what about on the dock? What equipment do you use? A. We use what is referred to in the stevedoring business as a jitney. A jitney is a tractor with a model

*Ellet G. Horsman—for Complainant—Direct*

engine, and in front of the jitney we have a foam rubber pad which pushes the automobile from the hook where it was left to a storage point in our yard.

Q. How about in Long Beach? A. In Long Beach, we pull them. The longshoremen will not push them in Long Beach, but they pull them. In San Francisco they will not pull them, but they push them.

Q. Is there any special equipment needed for pulling them? A. Just a line to—

Q. Is there any special hook? A. You have to have a special hook not to damage the bumper, but it is something that can be fabricated in your [231] shop.

Q. What would you say was a typical capacity for autos of one of these modern automobile carriers which Volkswagen chartered? Do you have any idea of approximately the number of vehicles that such a vessel carries? A. We have had them up to 1300 cars per ship.

Q. Now, if we assume that the cargoes are roughly three-quarters sedans and one-quarter transporters, is there [232] any convenient way that you could estimate the number of measurement tons that that cargo would constitute? A. Let's round it off and say a thousand cars, and they measure, the average I think was placed at ten there in the Leader.

Q. Approximately 10,000 measurement tons? A. Yes.

Q. Now, assuming the average cost for discharging those vehicles during 1961 at \$10.45, the cargo handling costs would total approximately how much money there?

A. About \$11,000, rounding it off again, it would be \$10,450, on the basis of units.

Q. Now, what would be the mech fund assessment on 10,000 measurement tons? A. What did we establish was the mech fund on a sedan? Was it \$2.40?

*Ellet G. Horsman—for Complainant—Direct*

Mr. Zimmerman: Well using the tonnage figures.

*By Mr. Madden:*

Q. Use the tonnage. The measurement tons, on 10,000 measurement tons. A. Times—

Q.  $27\frac{1}{2}$  cents. A. Yes,  $27\frac{1}{2}$  cents.

Q. That would be approximately \$2,750? A. Yes.

[233] Q. Which is readily computable as being an increase of the discharged cost of the fraction made by 2,750, divided by— A. Divided by 10.45.

\* \* \*

The Witness: The mechanization fund of \$2,750 represents approximately 25 per cent of the total stevedoring costs on a thousand automobiles.

*By Mr. Madden:*

Q. On 10,000 measurement tons of cargo, can you estimate the average stevedoring and terminal costs other than automobiles?

\* \* \*

The Witness: Can you name a particular commodity?

[234] *By Mr. Madden:*

Q. We will say cotton. A. Cotton?

\* \* \*

Q. Can you compute what you would estimate to be an average cost of discharging 10,000 tons of baled cotton?  
A. Stevedoring and terminal, or just stevedoring?

\* \* \*



*Ellet G. Horsman—for Complainant—Direct*

[235] The Witness: Yes.

*By Mr. Madden:*

Q. And how much do you estimate that to be? A. \$10 a ton, \$10 per 2,000 pounds.

Q. And the mech fund assessment on that 10,000 pounds at 27½ cents is the same, I take it, as 10,000 pounds of Volkswagen? A. Yes, it is assessed on a weight basis.

Q. Can you compute the percentage increase of the cost of discharge? A. It would be about three per cent, wouldn't it, 2.7?

Q. Mr. Horsman, you stated that you handled discharge, [236] unloading of cargoes for common carriers, and—  
A. Contracts.

Q. And contracts? A. That is right.

Q. That is chartered vessels? A. That is right.

Q. Have you any idea about what the percentage between those two are? A. On what, sir?

Q. Between chartered vessels and common carriers.

A. For what type of cargo, all cargo?

Q. All cargo. A. Well, I can only speak for my firm.

Q. Yes. A. About 90 per cent of it is liner business or common carrier.

Q. In reference to cars, what percentage of it is Volkswagens? A. I would say that they represent about 90 per cent of the automobiles we handle.

[237] Q. To your knowledge, do you know of any movement of chartered cargo to the Pacific Coast that moves in greater volume than Volkswagen automobiles, excluding bulk carriage? A. If you apply it to a measurement basis, no.

*Ellet G. Horsman—for Complainant—Direct*

Q. How about number of ships? A. Could you ask that question again?

Q. How about the number of ships? A. No, the original question.

Q. The movement of chartered—

Examiner Theeman: Well, let's read it back, the original question, please.

(Record read.)

The Witness: I think that they are the largest.

I am only thinking of steel commodities that are moving in private vessels but, as I say, if you applied a measurement, no. Volkswagen is the largest, and in the number of vessels I would say that they are pretty much the largest contract [238] carrier here on the Pacific Coast.

*By Mr. Madden:*

Q. You have filed protests, have you not, with PMA, as to the impact of the measurement tonnage basis of assessment on vehicles? A. We have, and I believe that my letters or letters from my firm are part of the record.

Q. And in those letters, did you state to PMA whether or not it was possible for you to absorb the increased assessment?

A. Whether I wrote the letter or not, we couldn't absorb it, and whether I made myself clear in this letter to [239] Pacific Maritime Association, I don't know.

Q. Have you discussed the problem of the assessment on Volkswagen automobiles with other stevedoring companies who handle them on the Pacific Coast?

Mr. Zimmerman: Yes or no.

*Ellet G. Horsman—for Complainant—Direct*

The Witness: Yes.

*By Mr. Madden:*

Q. In any of these discussions, did any of them indicate that they thought it was possible to absorb the assessment within their operation? A. No.

Q. What other employer members of the PMA have you discussed this problem with? [240] A. Other members of the PMA?

Q. Yes. A. Quite a few. Namely, Mr. Peter Teige.

Q. I mean direct employer members, the contracting stevedore members, and the terminal operator members. A. We have discussed it at PMA meetings, the stevedores together have discussed this problem.

Q. Do you recall any particular time or place when it was discussed? A. In January 1961, at 16 California Street, and I don't know the date.

Q. Was that a meeting of the PMA? A. I believe there was a meeting of the PMA that month on the establishment of the formula or format to be used for the assessing of various cargoes at which time it was indicated that the assessment would be based on "as manifested"; then some weeks later Mr. Saysette clarified it, pointing out that automobiles, regardless of what they are freighted as, would be on a unit basis.

This gave us the opportunity to discuss with the other stevedores what they had done or what they were going to do, but I might point out these discussions took place during meetings at Pacific Maritime Association.

Q. It would be fair to say at least that there was uniform agreement that it would be impossible to absorb the [241] assessment among the contracting stevedores with whom you talked?

*Ellet G. Horsman—for Complainant—Direct*

Q. Was it the uniform opinion of the contracting stevedores with whom you talked that the assessment could not be absorbed by them? A. Yes, when placed on a measurement basis.

[242] Q. Are either of your companies members of any agreements which have been filed with the Maritime Commission? A. No, sir—let me reanswer that.

The stevedoring contractors of the Pacific Coast was formed last year with the approval of the Federal Maritime Commission.

Q. Is Marine Terminals Corporation still a member of the San Francisco Bay Carloading Conference? A. Yes, sir.

Q. That agreement was filed, wasn't it? A. Yes, sir, some years ago.

Q. And your Southern California company? A. Under the Southern California—

Q. Carloading tariff? A. Carloaders Association.

Q. Those agreements recite, do they not, that your companies are other persons subject to the Shipping Act? A. (No response.)

Q. Are you familiar— A. I am not familiar with them.

Q. But you are signatory parties to them? A. We are.

Q. And to this more recent— [243] A. This Association, yes.

Q. What is the purpose of this recent Association? A. So that stevedores with mutual problems can get together and talk about these mutual problems. It is something that we needed for many, many years.

Q. And that agreement has been— A. Filed with the FMC.

Q. Filed with the FMC? A. And approved.

*Ellet G. Horsman—for Complainant—Cross.*

[244] *Cross-examination by Mr. Zimmerman:*

Q. Are most PMA assessments included in the commodity rate which you quote to Volkswagenwerk? A. The man-hour assessments are included in the per unit charge, yes.

Q. Are there any PMA assessments that are not included other than the mechanization fund assessments? A. No, sir.

[245] Q. After the mechanization fund went into effect, did you offer to establish a new commodity rate with Volkswagenwerk which would include the mechanization fund assessments? A. Yes.

Q. What was Volkswagenwerk's answer to that proposal? A. They didn't accept it.

Q. I would like you to look at Exhibit 9, a letter which you wrote to Mr. Saysette of March 9, 1961, and referring particularly to the fourth paragraph, did Volkswagenwerk advise you as to what they would do if you attempted to include the mechanization fund assessment in the commodity rates? A. Well, it says here—it answers it in paragraph 4.

Q. Yes. And what was their advise to you? A. They also have indicated, their agents, that if our rates are renegotiated and the assessments placed in the rate, they will continue to deduct the 27½ cents per measurement ton.

Q. Now, at this time had you offered to quote them a commodity rate which was more than the previous commodity rate in order to absorb the mechanization fund? A. If I remember—I don't know if I did it by letter [246] or verbally, but I informed Volkswagen that we could absorb the mechanization fund if it were placed on a weight basis. It made it less than 20 cents, if I am not mistaken.

Q. Twenty cents per auto? A. Yes.

Q. And you had advised them that you could absorb that much in your current commodity rate? A. We were ready to do it, yes.



*Ellet G. Horsman—for Complainant—Cross*

Q. Did you offer to quote them a new commodity rate which was greater than your old commodity rate and still absorb a part of the mechanization fund on a measurement ton basis? A. Yes, I submitted some rates based on the calculation that the 27½ cents would be assessed on a measurement ton. At the time we took the experience we had on the last year, and the rate was not the same as it was, plus the assessment. It was a new rate taking into consideration the past experience and the new mechanization fund assessment.

Q. And was that the proposed rate which Volkswagenwerk declined to accept? A. They declined to accept it on the basis that they would not pay the fund on a measurement basis.

Q. Subsequent to that refusal, did you continue to work Volkswagenwerk's cargo at the previous commodity rate? A. Yes.

[247] Q. And was that rate subsequently renegotiated? A. Yes.

Q. And was the rate increased or decreased? A. I believe it was decreased.

And has it been renegotiated since that time? A. Yes, it has. The procedure in most cases that all stevedoring rates are negotiated once a year, taking into consideration changes in wages, manhour assessments, and the units per hour in the case of Volkswagen.

This is a practice that is done throughout the industry in most cases.

Q. You have mentioned having discussions with other stevedores. In those discussions or at any time was there any agreement reached as to how each of the stevedores would handle the mechanization fund assessments? A. No.

*Ellet G. Horsman—for Complainant—Cross*

Examiner Theeman: Did any of the stevedores mention how they would handle the mechanization fund without having arrived at an agreement?

The Witness: It was all, "What are you going to do? What are you going to do?"

"Gee, I don't know."

Examiner Theeman: Did they answer all with this, "What are you going to do?"

The Witness: There was nothing concrete. I think [248] some of them indicated, "Well, we are going to have to charge them."

Let me for the record—we bill—

Examiner Theeman: Now, I am just talking about the conversations now.

The Witness: No, sir.

Examiner Theeman: When you say, "No, sir," you mean what?

The Witness: There was nothing concrete, I mean no specific answer that this is how we are going to bill it.

Examiner Theeman: Or how we are going to handle it?

The Witness: Handle it.

*By Examiner Theeman:*

Q. Do you remember the name of any of the particular stevedores you had the conversations with? A. Yes, they were all stevedores involved in this case. There was Mr. Ebby of California Stevedore & Ballast Company, Mr. Smith of Seattle Stevedoring Company, Mr. Whisnant of Brady-Hamilton Stevedoring Company, Portland, and I believe John Anthony of Associated Banning Company. This took place, as I say, again, during the meetings of PMA at PMA.

. . .

*Ellet G. Horsman—for Complainant—Cross*

[253] Q. Now, you mentioned handling Volkswagens for common carriers or liner services, as well as for Volkswagenwerk. Have the mechanization fund assessments on the autos which you discharged for common carriers been paid? A. Yes.

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[254] *By Mr. Zimmerman:*

Q. You have indicated that you handle these autos both for common carriers and for Volkswagenwerk. Now, you have been assessed certain mechanization fund assessments in connection with the autos handled for common carriers. Have any part of those assessments been charged in any way against Volkswagenwerk? A. No.

Q. Have any part of the assessments in connection with handling autos for Volkswagenwerk been charged against the common carriers? A. No.

Mr. Zimmerman: I have no further questions.  
Examiner Theeman: Mr. Ransom?

*By Mr. Ransom:*

Q. This gadget or device which you purchased from Volkswagen and started using about three or four years ago, I think you said, did it result in any savings in cost to you? A. Yes, in claims.

Q. In your Los Angeles operation, Mr. Horsman, did you since the mech fund went into being effect the elimination of some men from the dockside part of the stevedoring or terminal operation? A. Yes, I believe that we asked for the right to [255] change something that we should have done years ago. It is rather embarrassing to answer this question, because it was an oversight as far as the operations go.

*Ellet G. Horsman—for Complainant—Cross*

We wanted to operate the dock with men, depending upon the location of the cars, where they would be placed. In some cases we used more men on one ship and less the next, depending on the type of cars, the dealer arrangement, and I believe we asked the steering committee to give us approval to make changes on the docks down in Long Beach when we saw fit.

Yes, to answer your question. Yes, there has been.

Q. The net result was the approval of a change in work practice which eliminated some manhours of work? A. Yes. Again I say that this is something, Mr. Ransom, we always had a right to do, to request change in practices. I am afraid that we took advantage of it rather late.

Q. Would you not agree with me that perhaps rights of this sort are now granted more freely and with less turmoil, if granted at all, prior to the improvement fund? A. This was a very serious situation in Los Angeles and Long Beach area, which was the dockhands.

Examiner Theeman: Excuse me just a moment. Could we place this, so far as time is concerned?

Mr. Ransom: He has already testified that what I [256] am talking about was since the inception of the mechanization fund.

Examiner Theeman: I am sorry, I hadn't caught it. Continue.

The Witness: We had this right before. This was a type of change that could be made before.

*By Mr. Ransom:*

Q. But what I am suggesting to you is that it might have been a right which you considered you had before, but perhaps it might not have been so easy to exercise it prior to the fund. Would you agree to that? A. It might.

*Ellet G. Horsman—for Complainant—Cross*

Q. As a matter of fact, particularly in Los Angeles, whether by autos or otherwise, there has been some general improvement in the attitude of the workers as to changes, hasn't there? A. There has been a tremendous change in the operation of the docks in the Los Angeles-Long Beach area since the mechanization fund, especially in palletizing, car work, depalletizing, and work like that. We have accomplished much on that, yes.

Q. Has there been a general improvement since this mech fund in matters of work stoppages, let's say, work stoppages or wildcat strike, and things like that? A. Yes, sir.

[257] Q. And that redounds to the benefit of the entire industry? A. Yes.

Q. Has there been an improvement in such things as—I guess it is known as slowdown practices among the men? A. In isolated cases, we still have the problem, but the attitude of the regular longshoremen is that he works the best he can, and then as I say, in isolated cases, you also have that problem of either deliberate or a slowdown, or they don't occur as they have in the past.

Q. But in general, the attitude has improved since the mech fund? A. The attitude?

Q. Yes. A. Yes.

Q. Leaving automobiles aside for the moment, are there cargoes which have resulted in no productivity increase since the mech fund, and are there cargoes which have resulted in productivity increases both ways? Is that right? A. Yes, but in general the tons per hour have not changed.

Q. Then that doesn't change your answer to me that it is, "Yes," in some cases and "No" in others? A. I would say in general, since the mechanization fund, to be very honest with you, we have not seen an [258] increase in tons per hour. We are enjoying less work stoppages, but we could not increase production.



*Ellet G. Horsman—for Complainant—Cross*

Q. Have you ever handled Renaults? A. Yes, sir.

Q. Do you happen to know what the weight of a Renault is, and its measurement tonnage? A. It is approximately the same as a Volkswagen. Let's take the Dauphine.

Q. Yes. A. I think it measures about the same as a Volkswagen sedan, and it weighs—its weight is about comparable.

Q. What about Fiat? A. That would also run—Fiats, Renaults, and Volkswagens—about the same.

Q. Is the Renault an air-cooled engine? A. No, that is water-cooled.

Q. Would the fact that the Volkswagen is an air-cooled engine result in its being somewhat lighter? A. I don't know.

Examiner Theeman: Do you know that?

The Witness: I don't know.

*By Mr. Ransom:*

Q. Have you handled Fiats? A. Yes, sir.

Q. In your handling of Renaults and Fiats, have you

• • •

[260] Q. Whatever contracts have been made, have Volkswagen been aware that there has been as part of the costs that make up your bill, this measurement ton assessment for dues? A. I believe that they would be aware. It was a very extensive negotiation.

Q. Then you know there was? A. Yes.

Q. Have they complained about that one to you? A. Germany has a tendency to complain about all costs.

(Laughter.)

Q. They haven't refused, as they did with respect to this mech fund assessment, called it out? A. Franz Klaffs, when he was associated with [261] Volkswagenwerk, made

*Ellet G. Horsman—for Complainant—Cross*

it a point to ask the question to me why the cargo dues were placed on a measurement basis, rather than on a weight basis, and my answer was that I gave him a copy of Mr. Saysette's letter of September 1958, and I think this is what we have to do.

\* \* \*

Q. In other words, it didn't get the same treatment as the mech fund? A. No, sir.

Q. By them? A. No, sir.

\* \* \*

[262] Q. Do you recall a membership meeting in January 1961 when the program was voted on? A. What was the date of that?

Q. January 11, 1961. A. No, I was in the East. However, members of my firm were there.

Q. Do you happen to remember whether your firm voted yes or no on it? A. I don't remember, but I don't think there were any assenting votes.

Q. Pardon? A. I believe that we did vote for it.

Q. That you did vote for it? [263] A. I can't say, but I am pretty sure we did.

\* \* \*

[264] Mr. Zimmerman: I found that I had skipped one technical question, and I can take it either before or after.

Examiner Theeman: Why don't you take it? It might affect Mr. Madden's questions.

*By Mr. Zimmerman:*

Q. Now, in connection with the manhour assessments for terminal services, has that assessment been paid by Marine Terminals in connection with the handling of Volkswagen autos? A. Yes.

*Ellet G. Horsman—for Complainant—Redirect*

Q. And that assessment is not in question in your litigation with Volkswagenwerk, is that right? A. I don't think so. I hope not.

(Laughter.)

Mr. Zimmerman: Thank you.

Examiner Theeman: Mr. Madden.

*Redirect examination by Mr. Madden:*

Q. Mr. Horsman, Mr. Zimmerman mentioned that the rates were renegotiated after this base period of 1961, and you said that it had been renegotiated at a lower rate. Has it been renegotiated again since that? A. Oh, yes, since Mr. Curtis has been a part of the Volkswagen organization, he negotiated after each change in wages the first Monday of June each year.

[265] Q. And has the rate been lower or raised? A. They are enjoying a lower rate than they were in 1961.

Q. Has there been any other charge that has been changed in that rate, for example dead time? A. Oh, yes.

Q. You might explain briefly what the effect of that change in the dead time means. A. Because of the type of cargo, one commodity per vessel, we took the risk at one time of having dead time. Dead time is a period of time between when the operation is completed by the men until the time they are guaranteed. This can be a substantial amount of money, depending upon the circumstances or the mood of the men, and at one time we absorbed all the dead time.

Examiner Theeman: By guaranteed, you mean under the labor contract?

The Witness: Yes, sir. The recent negotiations, the principal's agent, Mr. Curtis, and Wolfsburg, agreed that we have a formula now for dead time

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where our firm cannot be hurt as much now as it was in the past. They are willing to pay us for a certain percentage of the dead time. It is a formula, and it is a rather complicated formula, and I think it is a very fair approach to the dead time problem that we have in the industry.

[267] Q. When you mentioned the assessment for discharging Volkswagens from common carriers had been paid, those assessments, I take it, were paid by your firm to the PMA fund? A. Yes, and we collected.

Q. You collected it from whom? A. The steamship operator.

Q. The steamship operator? A. Yes, sir.

Q. You have no knowledge, then, whether the steamship operator collected it from Volkswagen or not, do you? A. No, I don't, but I believe that it hasn't, because one of the largest common carriers of Volkswagen told me on a common carrier basis that he could not pass that cost on to Volkswagen.

[268] Q. That was the owner's agent out here for the company? A. That was the owner's representative, speaking for the owner.

[272] Whereupon, PETER CURTIS was called as a witness by and on behalf of the Complainant and, having been first duly sworn, was examined and testified as follows:

*Direct examination by Mr. Madden:*

Q. Will you state your name. A. Peter Curtis, C-u-r-t-i-s.

Q. And what is your position? A. President, Automar, Inc., 260 California Street, San Francisco.

Q. Prior to your position with Automar, Inc., with whom were you associated? A. I was vice-president, Winchester Agencies, Inc., San Francisco.

*Peter Curtis—for Complainant—Direct*

Q. In your duties in these two positions, did you have an association or perform services for Volkswagenwerk AG? A. Yes, I brought to Winchester Agencies the agency representation of the vessel under charter by Volkswagen. I had an agency in San Pedro which handled the Volkswagen [273] charter ships before I joined Winchester. The Volkswagen extended that representation to my new employer when I joined them.

Q. Would you describe briefly what this service consists of? A. There are two functions. One is a husbanding agency function; that is to say rendering port agency services to the vessel or vessels themselves.

Q. All right. A. Secondly, commencing in August 1961, the representation was extended to that of Volkswagenwerk, called coordinating agent. In that capacity, the coordinating agent is supposed to assist Volkswagen in negotiating stevedore contracts, selection of stevedores, and terminal operators, liaison with the distributors of the automobiles. I think that is about it.

Q. Liaison with the distributors was for the purpose of delivery? A. Delivering the automobiles to the distributors.

Q. How are vessels brought to the Pacific Coast from Germany by Volkswagen? A. How are vehicles brought or vessels?

Q. Vehicles. A. Presently there are two methods. One is under berth term arrangements with common carriers. At the present [274] time that consists of berth terms arrangements with Hanseatic Vaasa Line, and with Wallenius Line. It is—it has in the past also included Fred Olson Line. The other method is under vessels under time charter by Volkswagen, under lump sum FIO single-voyage charters, and by vessels under contracts of afreightment for the consecutive voyages.



*Peter Curtis—for Complainant—Direct*

Q. In time charter ~~and~~ consecutive voyage, FIO type of arrangement, whose responsibility is it to obtain the discharge of a vessel? A. The charterer.

Q. And that would be Volkswagen? A. That is Volkswagenwerk.

Q. And your function in that connection is what? A. To assist Volkswagen in negotiating stevedoring contracts, to make recommendations to Volkswagen on stevedore contracts. When I say stevedore, I mean including [275] stevedore and terminal, and to cooperate with the stevedore terminal operator and, at the same time, supervise the stevedore terminal operator's performance.

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[276] Q. Do you know how many chartered vessels per year come to the Pacific Coast during, say, 1961 and 1962? A. In 1962 we averaged approximately three and a half chartered vessels a month.

Q. How about 1961, was that more or less? A. There would have been fewer vessels in 1961.

Q. To your knowledge, are there any other charter vessels carrying cargo to the Pacific Coast, other than bulk carriers that move in as great a volume as Volkswagen? A. I know of no other dry cargo movement with charter vessels, bulk or otherwise, that is as large as Volkswagen's charter operation, from the point of view of total dead-weight tonnage of the vessels engaged, or in the number of vessels engaged.

Q. How are the vehicles that are shipped by Volkswagen [277] on these chartered vessels manifested? A. Per unit.

Q. Has that been the case as long as you have represented Volkswagen? A. Yes. I should point out, Mr. Madden, however, that when I say manifested, there is no freight shown on the charter ship manifests. Many of the charter ships are under a time charter. Many of the ships are under

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a lump sum FIO. Volkswagen always manages to put as many cars aboard as they can squeeze in.

Q. The manifest that is prepared, does it show weight?

A. It always shows weight in kilos.

Q. Does it show measurement? A. There have been some cases, I would say generally isolated cases, where measurement has been shown as well as weight on the manifest. Many of the agents who perform the husbanding and documentation services at the loading port are agents handling many, many types of vessels, and in most liner trades both weight and measurement is shown on the manifest.

That is the reason why some of the manifests have shown weight and measurement for the cars.

\* \* \*

[281] Q. Can you make a comparison of a typical charter shipment of Volkswagens with respect to their weight, as compared to their measurement? A. Yes.

Q. Will you do so? A. Mr. Herzfeld yesterday I believe when off the record referred to the egg-shape or egg type models of Volkswagens, which appeared in recent advertisements, and let me use that expression to describe the cars, which are smaller and are in silhouette perhaps somewhat similar to an egg, which would include the sedan, the sun roof sedan, the convertibles, and the Ghia coup, and then let us refer to the others as box-shaped vehicles, which will include all of those in the transporter category, including the pick-up truck.

The average weight of the egg-shaped vehicles is 1,643 pounds each. The short ton equivalent is 0.8, or eight-tenths of a weight ton. The cubic measurement of the egg-shaped vehicles averages 312 cubic feet, which converts to a measurement ton of 7.8.

The measurement as seen is, almost ten times that of the weight. The box-shaped vehicles will average 2,193

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pounds, or a short ton equivalent of 1.1 ton. The average [282] cubic of the box-shaped vehicles is 45 cubic feet, or a measurement ton equivalent of 11.4 measurement tons.

As it will be seen in the box-shaped vehicles, the measurement exceeds ten times its weight. In the charter ship movement during '62, and continuing now into '63, out of every four units my impression is that the distribution would be three units in the egg type, and one in the box type.

If we apply that three to one ratio, we come out to an average of the four units, each one would be 0.9 short tons in weight, and 8.7 measurement tons.

Q. From a study of your records on the cost of discharging these vehicles during 1962, can you state the average discharge production that was accomplished per gang hour? A. Well, let's put it this way, that Marine Terminals Corporation and Volkswagenwerk have agreed that they will consider that the stevedoring rate for the year beginning September 1962, and running for 12 months, will be based on 16.54 autos per gang hour at San Francisco, and 17.75 autos per gang hour at Long Beach, which we all considered to be the net discharging average for the 12 months ending December 1962, in the actual discharge of the Volkswagen charter vessels, exclusive of the dead time.

That would convert, assuming you had an equal number of cars, to the Los Angeles area and here, and it is [283] approximately, that would work out to an average of 17 autos per gang hour which, on the basis of the weights and measurements referred to previously, would work out to an average production per gang hour of Volkswagen autos of about 15.3 short tons per hour, and correspondingly to 148 measurement tons per gang hour.

Q. Now, what would be the average gang hour weight during a typical shift of eight hours? A. Assuming six hours straight time, two hours overtime to make up a normal eight-hour shift, the wages alone, exclusive of in-

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insurance, taxes, and any PMA assessments, would amount in San Francisco, for a typical Volkswagen auto gang, \$69.17 per gang hour, utilizing 18.75 men per gang; and at Long Beach \$76.72 per gang hour average wages, with 21 men per gang.

If again we assume, and it is, reasonably close, that it is approximately 50 per cent Long Beach and 50 per cent San Francisco, the charter vessel average will be \$72.95 per gang hour for the California ports.

Examiner Theeman: Give me that figure again.

The Witness: \$72.95, Mr. Examiner.

On the basis of average production, that we previously talked about, in other words, 15.3 short tons of automobiles, or 148 measurement tons, on—those gang hour costs of \$72.95 in California ports versus 15.3 short tons [284] is the equivalent of \$4.76 per short ton average.

\$72.95 in wages versus 148 measurement tons would be the equivalent of 49 cents per measurement ton, if we applied the wages against measurement tons, emphasizing there that those are wages, no fringe assessments or insurance attachment or overhead.

*By Mr. Madden:*

Q. Now, if the mech fund assessments are added to these wages, what is the effect upon the comparative cost?

A. It is just a question of dividing and multiplying the factors we have already had which, if you base your assessment on a measurement ton, the mech fund assessment would be 27½ cents versus wages of 49 cents per measurement ton.

In other words, the mech fund would represent a cost equal to 56 per cent of the basic wages. If applied to a



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weight ton, however, the mech fund of 27½ cents per short ton and wages, as we said above, \$4.76 per short ton, the mech fund equals 5.8 per cent of the wages.

In other words, when the mech fund is applied on a measurement ton basis, speaking only of wages, now, the mech fund equals 56 per cent of the wages, and when it is on a weight ton assessment it equals 5.8 per cent of the wages.

[285] Q. Are you familiar with what the total payroll during 1962 was for the ILWU in San Francisco? A. Well, the Pacific Maritime Association put out an annual report for 1962 on April 15th, of which there is a graph which shows shoreside wages, California, Washington, Oregon, and it shows wages for 1962 in that category of \$103,953,362.

Q. Does the amount of the mech fund assessment appear in that report? A. I couldn't find it, but it did appear in the records under Exhibit 49.

Q. And how much was that? A. The mech fund collections from Exhibit 49 for 1962 amounted roughly to \$5,200,000.

Q. What percentage is that of the total wages paid to [286] longshoremen during '62? A. That would mean the mech fund collections for 1962 represent an average funding burden of about five per cent of the total wages paid. That is on all cargo, apparently.

[291] Q. Would you state who are presently discharging Volkswagens for Volkswagen under the charter? A. In Seattle it is Seattle Stevedore Company. In Portland it is Brady-Hamilton Stevedore Company; in San Francisco, Marine Terminals Corporation; in Long Beach, Marine Terminals Corporation of Los Angeles.

Q. Do you know if there are any additional companies who discharge Volkswagens for the liner companies? A. (No response.)



*Peter Curtis—for Complainant—Cross*

Q. Could you name the others? A. Not reliably. I know that California Stevedore & Ballast in San Francisco is doing the work for one of the common carriers, and Associated Banning in Long Beach is, or Los Angeles, is doing the work for another one of the common carriers.

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*Cross-examination by Mr. Ransom:*

\* \* \*

[301] Q. And you are aware in negotiating for Volkswagen that that has been included in one of the costs? A. Yes.

Q. And that has been since you first started in this operation? A. I wasn't aware of it when I first started in the operation. I found out about it after I got into it.

Q. Were you aware that the mech fund had undergone a change from 27½ cents a ton, relating to stevedores, to 24½ cents, and then a 15-cents per man hour for clerking? A. Yes.

Q. And the 15 cents per man hour for clerking has been included in the rate and payable? A. It is included in the rate in California and has been paid. In Oregon and Washington, it is billed separately, in addition to the commodity rate, and has never been contested by Volkswagen, and has been paid, in addition to the other commodity rates.

Q. It has been what? A. It has never been contested by Volkswagen, and has been paid in addition to the commodity rates.

Q. It has been paid? A. The reason being that our stevedoring order for Washington and Oregon provides that our super cargo checkers are not included within the commodity rate.

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[304] Q. Has Volkswagen or you particularly made a study of the Matson operation in their auto transportation? A. I am familiar with their cage system, as they call it,

*Peter Curtis—for Complainant—Cross*

in general terms. That is all. It is our understanding it is working out quite well.

Q. Pardon? A. It is our understanding it is working out quite well.

Q. Has Volkswagen made any attempt, to your knowledge, to take advantage of the Matson operation, the Matson type operation, to improve its own methods of bringing cars in and discharging them? A. The newest vessels that move into the Volkswagen charter trade will come in in May, and they are going to be larger than we have had up to now, and they are an improvement over existing Volkswagen charter ship arrangements, rather than adopting what I call Matson's plan.

You have different elements involved. You have a very expensive per diem cost on American flag operations. Your per diem cost on European flag vessels will be less. Your investment in Matson type operations for modification of the vessel is probably greater than the investment made on the European auto carriers, but it is our impression that production per gang hour on the type of vessel that Volkswagen has had in its trade since 1961 is comparable with the new [305] innovation that Matson has, so there is really not any reason for Volkswagen to change.

Q. Have you obtained from Matson any figures as to how they have increased their production since the mech fund went in? A. We have not talked to Matson directly. We are always glad to listen.

Q. So would your new vessels call for a change in method of discharging? A. No, it would be the same.

Q. Volkswagen Company has not, then, attempted to follow a system of drive into a cage and drive off on the vessel? A. No, that is the system I thought you were talking about. No, we have not. The return haul of the vessels in the trade from Europe to the Pacific Coast is

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different than ships in the trade from the Pacific Coast to Honolulu, and coming back from Honolulu, all of which enters into the picture of why you design a ship a certain way.

Q. You gave some figures on the number of man hours per Volkswagen currently. A. Yes.

Q. Do you have those figures? A. Was that me, or was that Mr. Horsman?

Q. I didn't hear you. [308] A. No, I don't have that.

Q. And the Pacific Coast-European Conference is from the United States? A. It is an eastbound tariff. Is that right?

Q. I am not sure whether I understood your testimony about when the M&M fund went in, and the offers and acceptances between you and Marine Terminals on their stevedores.

Do you disagree with what Mr. Horsman said on that subject this morning? A. To what subject are you referring of Mr. Horsman?

Q. I am referring to Mr. Horsman's statement that they proposed to you a rate after the mech fund went into effect which was more than the prior rate, but not more than by the amount of the mech fund assessment. A. Well, that would be one area where I think I might disagree just slightly, but I don't think that Mr. Horsman's proposal was even acknowledged by Volkswagen. Volkswagen has consistently said they considered the measurement ton assessment utterly unfair, and they have had nothing to do with it.

Examiner Theeman: Mr. Ransom, my notes indicate that when Mr. Curtis was referring to the testimony by Mr. Horsman that he was referring to the terms of the contract with Volkswagen rather than negotiations.

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Mr. Ransom: Well, that is what I am really asking [309] him about. My notes show that he said that Marine Terminals was asking for an increase to cover the cost of the M&M fund, and I am trying to develop whether he disagrees with my understanding of Mr. Horsman's testimony when they asked for an increase to cover part of the cost of the M&M fund.

Examiner Theeman: All right, ask him now.

The Witness: There was one proposal of Marine Terminals made that had the effect that Marine Terminals was going to absorb a few pennies of the two dollars and some-odd assessment per car.

*By Mr. Ransom:*

Q. I see. A. And it is my recollection that Volkswagen did not answer that on the ground I stated.

Q. When you stated that the non-member stevedore that you consulted with on this, would that be the Oakland Dock & Warehouse Company, or something like that?

A. They were one.

Q. And you stated they said they would come up with some alternative arrangement? A. Yes.

Q. Would you explain that a little clearer? A. We did not encourage them.

Q. Pardon? A. We did not encourage them with an alternative [310] proposal. The relationship with the stevedores has been a good one. The stevedores have done a good job, and we are hopeful that we will never have to make a change.

Q. Then it isn't your position that Volkswagens or automobiles are the only cargo which would pay more on a measurement ton assessment than on a weight ton assessment? A. I was interested in Mr. Horsman's testimony



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about the house trailer. I think that is an interesting example of another one of them.

I haven't thought independently of any others that would pay as big an increase.

Q. That wasn't my question. My question is, you don't contend that other cargo assessed on a measurement basis wouldn't pay more because they are assessed on a measurement basis than they would if they were assessed on a weight basis? A. I am sorry, I don't get that question.

Examiner Theeman: Will you repeat the question, please.

*By Mr. Ransom:*

Q. Maybe I can restate it. Any cargo that is assessed for the M&M fund on a measurement basis is going to be paying more than if it were assessed on a weight basis.

Examiner Theeman: Is that a statement or a question, Mr. Ransom?

\* \* \*

[316] FREDERICK F. NOONAN was called as a witness by and on behalf of the Complainant and, having been first duly sworn, was examined and testified as follows:

*Direct examination by Mr. Madden:*

Q. Will you state your full name, please? A. My full name is Frederick F. Noonan, N-o-o-n-a-n, business address 310 Sansome Street, San Francisco. I am president of Waterman Corporation of California.

Q. Waterman Corporation of California represents Wallenius Lines? A. Yes, we are Pacific Coast agents for Wallenius Lines.



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[317]. Q. Is Wallenius Lines a common carrier by Water? A. Yes, they are.

Q. Do they carry Volkswagens to the Pacific Coast? A. Yes, they do.

Q. Under what terms of carriage, what are the terms of the carriage when they carry Volkswagens? That is, are they berth terms? A. Yes.

Q. Or FIO? A. No, the ocean freight rate is a unit rate, and it is a berth term rate where the vessel pays for the loading and discharging.

Q. How are Volkswagens manifested by Wallenius Line? A. By unit as a rule.

Q. Do they indicate the weight on the manifest? A. I am not really certain. I believe the weight and cube are both indicated, but I would have to check that.

Q. The freight rate is per unit? A. Correct.

. . .

[318] Q. You are familiar, are you not, with the so-called mech fund assessment? A. Yes.

Q. Or M&M fund assessment? A. Yes.

Q. Since the inauguration of the mech fund assessment [319] in 1961, has your discharging stevedores included the cost of that assessment in their billing for discharge of Volkswagens? A. Yes, they have.

Q. In billing, that billing is to Wallenius Lines? A. In care of Waterman Corporation in California, yes.

Q. Has Wallenius Lines protested against the assessment? A. Yes. When the charge was initially assessed, it represented a substantial increase in the overall stevedoring and terminal charges, and not only did we protest but we refused to pay it for several months in the early part, I believe, of 1961.

. . .

*Frederick F. Noonan—for Complainant—Cross*

[320] Q. When you say a substantial increase, can you give an approximate percentage increase? A. Approximately 30 per cent.

\* \* \*

*Cross-examination by Mr. Zimmerman:*

\* \* \*

[322] Q. What is the freight rate that Wallenius Line charges for carrying each Volkswagen? A. Well, the freight rates vary, depending on the size of the car. They have a tariff, and I think the ocean freight [323] probably starts at 150 and go up, depending on the large Mercedes cars paying a higher freight rate.

Q. It is not a special rate for Volkswagens, it is a rate for any auto? A. Correct.

Q. And the rate depends— A. Each type and model of car has its own ocean freight rate.

Q. Each type of car has its own rate? A. Right.

Q. So there is a special rate for Volkswagens? A. Well, Volkswagen has several different sizes and shapes, as you are well aware.

Q. Yes. A. And each size has a different rate.

Q. I mean does the tariff have a rate for Volkswagens, or does it have a rate for different sizes of autos? A. No, Volkswagens are listed as an auto, as a Simca, British Ford—you name it—every car in Europe, we attempt to carry from Europe to the Pacific Coast.

Q. And every car is listed by make in the tariff? A. Make and model.

Q. Make and model? A. Yes.

Q. Does the tariff refer to the size of the car in [324] establishing the rate, or does it just refer to the model in establishing the rate? A. Well, the tariff on some pages shows the actual measurement of the car, and the ocean freight rate.

*Frederick F. Noonan—for Complainant—Cross*

Q. Aside from the tariff items covering Volkswagens, as particular autos, does Wallenius Lines have any separate contract with Volkswagen? A. Not that I am aware of. They may well have, but I have no direct knowledge of this.

Q. You mentioned an understanding with your stevedores as to refunding the assessments if this dispute were resolved. Is there any agreement in writing? A. No, this was entirely verbal.

Q. And you say that for the last approximately three months you have not paid the assessment, in any case?

A. I believe on two vessels we made some temporary arrangements to pay these into an escrow agent locally.

\* \* \*

[325] *By Mr. Ransom:*

Q. Mr. Noonan, your tariff as to cargo doesn't show the M&M fund as a separate assessment, does it? A. The tariff filing itself, you mean?

Q. Yes. A. No, nowhere in the tariff filing is the M&M assessment.

Q. Your tariff rate includes all discharging costs? A. The tariff is berth terms, correct. In other words, the carrier absorbs all discharging costs.

Q. Yes. The tariff was not amended at the time of the M&M fund or the mech fund assessment to give an increase in your price for autos, was it? A. Not that I am aware of, no.

Q. You said \$150 to a certain figure. Are you quoting from memory the freight rate on a Volkswagen of any kind from Europe, or were you just picking that figure out of the air? A. I don't know the exact figure, but I don't believe I am too far off.

Q. Well, does Wallenius Line belong to the inbound conference from Europe, or is it a non-conference carrier?

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A. They are an independent carrier. They do not belong to a conference.

Q. Do you happen to know what the conference rate is on a Volkswagen sedan from the port of loading to the West \* \* \*

[330] *By Examiner Theeman:*

\* \* \*

Q. In early 1961, you protested and refused to pay the mech fund assessment. Do you know whether that was the same position taken by the other common carriers?

A. I am trying to recall exactly who was present at this meeting that we had with the PMA board of directors on this, and I feel certain that all or, let's say, many of the other common carriers engaged in the carriage of cars from Europe to the Pacific Coast were present there. All were present, or were represented by their stevedore contractor—let's put it that way—and it is my impression that they were all very unhappy about this sharp increase in the cost.

Q. This was in the nature of a protest meeting? A. Yes, it was a meeting held with the directors of the PMA in which the Volkswagen representatives presented [331] their views, and several of us also presented our views at that time.

\* \* \*

[341] Whereupon, PAUL ST. SURE was called as a witness by and on behalf of the Pacific Maritime Association, Intervenor, and, having been first duly sworn, was examined and testified as follows:

*Direct examination by Mr. Ransom:*

Q. Mr. St. Sure, would you state your full name for the record, please, sir. A. Paul St. Sure.

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Q. What is your present position? A. Well, I am president of the Pacific Maritime Association, and I am also a member of a law firm, St. Sure, Moore & Corbett.

Q. How long have you been the president of the Pacific [342] Maritime Association? A. Since March of 1952.

Q. Will you describe your duties as president of the Pacific Maritime Association? A. Well, I am the principal executive officer of Pacific Maritime Association, which is an incorporated non-profit organization of employers engaged in operating steamships, operating as stevedores in the various ports on the Pacific Coast, and as terminal operators.

The membership includes approximately 150 companies, and my duties are to act as executives in supervising the operations of the various departments of PMA, and primarily, in addition to that, to act as labor negotiator for labor contracts between the members of the PMA and the various Maritime unions, and to supervise the administration of those contracts.

Q. What would you say was the principal function of PMA, as such? A. Well, the primary function of PMA is to negotiate and administer labor contracts with the offshore and onshore maritime unions affecting operations on the Pacific Coast under a unit defined by the Labor Board with regard to longshore functions, and under a master contract likewise certified by the Labor Board for a unit embracing all American flag vessels headquartered on this Coast.

[343] Q. Would you state whether the Pacific Maritime Association is a rate making group or rate making conference? A. No, we have no connection with and no responsibility for rate making. Indeed, our concern is merely the negotiation of wages, hours, and working conditions for the people within the units that I referred to.

Q. Does the PMA function through committees, through boards of directors? How does it operate? A. Well, we



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have—I will describe the staff structure of PMA first. There are probably 150 employees of Pacific Maritime Association. The organizational structure is a president—I am speaking of staff structure now—there are three vice-presidents, one a vice-president in charge of finance, Mr. Saysette, a vice-president in charge of labor relations, Mr. Goodenough, a vice-president-administration, Mr. Dellwig.

We have a director of offshore labor relations, manager of the contract data department, and an accident prevention bureau.

We have other staff members who attend such things as unemployment insurance claims. We likewise operate a central pay office for stevedores and terminal operators in each of the major ports. We have area officers with an area manager at each of the following port cities: Seattle, Washington; Portland, Oregon; San Francisco, California; and [344] Los Angeles-Long Beach, California.

They in turn have staff assistants.

The membership structure of PMA, as well as the corporate structure, provides for a board of directors and executive committee, and various standing committees such as one referred to as the Coast Steering Committee, as well as negotiating committees of operating people.

The number of operating people available who serve on the committees are reasonably few. Therefore, there is a good deal of interchange of responsibility from the point of view of the committee set-up, but the industry members do participate very actively in the day to day administration of the contracts, the administration of the functions of PMA, and in the actual negotiation of contracts with the various unions, though I am the official negotiator and the spokesman during these negotiations.

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Q. Is the steering committee involved in the labor negotiations? A. They are involved both in the negotiations of labor contracts, and also in the administration of the contracts on a day to day basis.

Q. What union represents the longshoremen and marine clerks? A. The International Longshoremen and Warehousemen's Union.

[345] Q. Is that certified by the NLRB to act for them? A. Following the 1934 so-called general strike, they were certified as representing the composite unit on the Pacific Coast, covering all longshore operations at all ports from the Canadian border to the Mexican border, and particularly certified as the bargaining representative of workers employed by Pacific Maritime Association members.

At that time, the membership was in an organization known as the Waterfront Employers of the Pacific Coast, which had subsequently merged into Pacific Maritime Association.

Q. And the Pacific Maritime Association, then, is an employers group that are bound together to negotiate with the various unions? A. It is an association of employers which is a pattern which exists on this coast in many industries, and the sole reason for the association, apart from the things that have branched out, such as accident prevention and other functions, but the primary reason for the organization existing is to bargain as the employer representative for this union.

Q. Do you represent through your law firm other employer groups in other industries? A. Yes, the pattern I mentioned of employer associations for bargaining purposes developed largely on this [346] coast, beginning in 1936. After the passage of the Wagner Act, and since 1936 my firm and I have actively and still actively participate in the negotiation of multiple employer negotiation contracts with the labor unions in the fruit and vegetable canning industry

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through an association known as the California Processors and Growers, which comprise about 80 per cent of the total fruit and vegetable pack in California, and in turn about 40 per cent of the national product.

Also, the Milk Product Manufacturers Association, a group of manufacturers of milk products such as condensed milk and dried milk cheese, butter, and other milk products, a similar association that has a contract for I would say 80 or 90 per cent of the employers in this field in California, all of the major advertised brands, and many farmer-co-ops.

Here again these associations bargain on a unit basis usually after certification by the Labor Board of a master unit. Also, Retail Merchants Association of Alameda County, a group of retail department store operators who have similarly bargained on a group basis since 1936 or '7, and other groups, the Fluid Milk Distributors, in the entire Central Valley, and the metropolitan areas, and we have also represented other multi-employer groups in various other industries over a period of the last 30 years.

[347] Q. I think you have pretty well demonstrated that you are fairly well acquainted in the labor negotiation field. What I would like to ask you next is the process by which these other employer groups have bargained for wages, working conditions, fringe benefits, similar to or dissimilar to that which is undertaken by PMA. A. No, the pattern of bargaining or the method or technique of bargaining for a multi-employer group is much the same.

The groups really are based upon a common interest in that they are operating in the same area of either production or providing service. They are competitors from the standpoint of gaining business, and their price operations in that connection, but they have the community of interest that either voluntarily or by compulsion requires them to deal with the labor that they hire as a group.

I say some voluntarily and some under compulsion.

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Many of these associations came together as a voluntary act of the competing employers. I think PMA is one exception of this. I think it came together by government direction, and the members are actually required to negotiate and operate on a coastwide basis by reason of the Labor Board action on the composite unit for longshoremen, particularly even though the employers themselves historically preferred to negotiate at least on a port basis, but PMA, since the [348] mid-30's has been the type of multiple employer organization I have described.

Q. You are generally familiar, are you not, Mr. St. Sure, with the history of the ILWU and the labor negotiations and work practices on the West Coast? A. Yes, I am.

Q. Would you, as background to this mech fund plan, describe if you will the trend from, let's say, 1934 up to the late 1950's of the longshore work practices and the wage and benefit trends? A. Well, beginning with the maritime strike of 1934, which led to the coastwise unit and the initial ILWU contract, I have had familiarity with the operation because my first work in labor relations began in 1934 in connection with that strike and, although I did not become associated with Pacific Maritime Association until 1952, the fact that this is a maritime community required that during all of the period intervening between '34 and '52, that anyone in the field of labor relations maintain some familiarity with what went on on the waterfront, because it cut across the entire economy.

Beginning in 1934 until 1948, following a second maritime strike in 1936, which was a bitter strike, the relationship between the employer group on this coast of maritime labor relations and the ILWU was generally described [349] as a bad relationship.

Books have been written about it to describe the continuing pressures of the union to apply more and more restrictive work rules, both during negotiations and by a



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process of job action, slowdown, and this involves such things as the addition of men that were not required on the job, the limitation of sling load limits, and a large variety of work practices that resulted in a declining productivity in all ports on this coast.

In 1948, the further bitter strike occurred which had over a hundred days duration. It involved a Taft-Hartley injunction which did not operate as a cooling off period, but by the union's own description involved a heating up period, and when the Taft-Hartley injunction expired the strike was resumed and continued for a long period.

Now, this strike resulted from an either philosophical or political difference, based on the theory that the Maritime would not do business with Communism. This was adopted by the ILWU that they would not permit their officers to take the oath under Taft-Hartley, and this became a strike issue.

Beginning with that period, and after this long strike, an attempt was made by the employer group to improve relationships as between the union and the employer group, and this developed into what was known as the "new look," [350] and when the strike finally was accomplished and settled, and the union had made very spectacular gains, both in the area of wages and the adoption of one of the first industry pension funds, there was a good deal of work done to endeavor to reverse the trend of constant work stoppages, work restrictions and slow-downs, and an attitude of extreme militancy on the part of the workers on the docks.

This didn't develop into much of a change and, indeed, during negotiations beginning 1952 when I was named president of the Pacific Maritime Association, we were continually trying to develop with the union some method of changing the attitude of the workers vis-a-vis the employers. We were also endeavoring to correct work practices by tightening up discipline, trying to avoid such



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practices as what the union refers to as "four on-four gone", where eight men are employed in the hold of the vessel, four of them report to work and work half the shift, and then the other four come on and work the other half, and all eight were paid for the total shift.

These were things, outside the contract, but they were the type of conditions that had developed on this coast. One of the worst ports, by way of performance, was the Port of Los Angeles, but the other ports likewise suffered from these bad work practices.

Each year until 1957, and on two occasions, we [351] went to arbitration; the employers presented the picture of declining productivity, worsening work practices, work stoppages, many a day in each of the ports which were in violation of the contract but which were difficult to compensate for because of the peculiar rotary hiring method we have on this coast; by that I mean the men can stop work, but the work is still going to be there when they come back, and the only men available are men out of the hiring hall on a rotational basis, so the tendency was to press more and more for the union and for the employers to give more and more in the hope that they could get their cargoes out and the vessel unloaded.

Despite the fact that we presented this picture in arbitration, no correction came about, and each year we continued to add onto the wage cost and on top of a declining or worsening set of work practices and productivity.

Beginning in 1957, the reputation of Pacific Coast long-shore operations, both by reason of bad productivity and high cost, had become so bad, both resulting in steamship lines going out of business in the intercoastal and coast-wise trade because of the cost and the availability of rail and truck competition, and this likewise developed into a very large shipper pressure to bring about or try to find some method of bringing about a correction, a change in

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trend, the reversal in attitude of the men towards the work, and towards [352] the employer.

We had many discussions with the officers of the International Union about this. They agreed that we had grounds for complaint. They likewise said that the responsibility was largely the responsibility of the industry to correct things which were outside the contract, but they likewise took the position that those things which we had agreed to by contract after all, even though we said that we were coerced into agreement, that we had made such an agreement, and we would have to live with it or buy it out.

Specifically, in 1957, I talked with Mr. Bridges, the president of the ILWU, and pointed out to him at that time that the pressure is on the employers, both stevedores and steamship companies, both foreign and American flag, by way of criticism from shippers, had become so great that whether he liked it or not, or whether I liked it or not, that we seemed to be heading for some kind of a showdown.

For example, we had a sling load limit in the contract which is unique on this coast covering various commodities, and the only exception to that sling load limit was what was referred to as a shipper's package load, which meant that if a unit of cargo was actually contained or strapped or put together by the shipper uptown, or some way from the dock, that load could go through even though it weighed not one ton, but two or three or four tons, the [353] sling load limit being essentially a one-ton limit, and the shippers, even though it was a greater cost to them to begin to unitize their cargo, were doing just that in order to escape the cost of handling on the dock, and the limitations by way of sling load and featherbedding, and other things that occurred on the docks.

We had such things as double handling. Any cargo that arrived at a dock, if it wasn't unitized, had to be taken

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off the pallet board or off the truck and rehandled two or three times before it got aboard the vessel.

As a result of these discussions, plus the fact that some of the steamship lines, notably Matson, who are a major link between the Hawaiian Islands and the Pacific Coast, and whose rates are regulated by Government agencies, found that they were being charged by the residents of the Island of having ruined the economy of Hawaii by reason of freight rates.

Matson began to experiment in new cargo handling methods, the conversion of vessels, the introduction in greater degree of so-called van or container handling of cargo, and van type movement of cargo had been attempted on this coast previously, but had been stopped by the unions, particularly the longshore union.

Notably, in the case of American Hawaiian Steamship and Luckenbach, both of which have since gone out of [354] business, and as a result of these pressures, plus the Matson determinations to try and improve the situation by introducing new methods and devices, it was evident that the union itself—that is, the workers on the docks—were stepping up their resistance to change which had been continuous over the years and, indeed, the threat was that if cargoes were to be containerized and brought to the docks that they would not be handled by longshoremen, or that they would be handled but double-handled as in the case of the East Coast unions in the same issues, claiming that if a container of cargo arrived at the dock, the longshoremen would unload it, check it, and load it back again before it would go aboard the ship.

As a result of these discussions in 1957—again discussions between Mr. Bridges and myself about a need for a change in the overall attitude of the men, of the operation, of the contract, of the removal of the restrictions and the reversal of the trend of vessel productivity—the Interna-

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tional Longshoremen and Warehousemen's Union called a coastwise caucus.

Q. May I interrupt first? A. Yes, sir.

Q. Did you and Mr. Bridges at that time get out sort of a joint statement of policy between you as to what your objectives might be? [355] A. That came later.

Q. That came later? A. It is my recollection. The ILWU operates in a rather unique fashion. They assert that they are, and I believe in fact that they are a rank and file type union. That is, the decisions are not made by the International officers and handed down. The decisions are made by delegates from the various unions elected for that purpose to authorize the International to take whatever action they have in mind.

This is not to say that the International officers don't endeavor to persuade or influence the results, but this is an actual method of operation.

Prior to this Portland caucus, the union, in each port appointed a committee to survey what was going on by way of mechanical change, what the union accomplished by way of revising it, what the shape of things to come might be by way of possible change in methods of operation by the introduction of machinery, and try to make an estimate of what there was at stake from the point of view of the longshoremen:

If they should give up their resistance to change, and their continued/diminishing pattern of productivity, and should permit the trend to be reversed.

A document was presented to the caucus as a report [356] of what they called their port labor relations committee amendment. It was an objective analysis of what had been going on over the years, and it ended with the declaration of the International officers of the union that the union had two ways to go. One, they could continue what Mr. Bridges described as the guerrilla tactics which



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had been so successful over the years, or they could continue to limit and control productivity.

They could continue to fight the machine. They could continue to maintain restrictive work practices, and even add to them, but that he felt this was possible for a limited period of time only, and that while they believed they had the strength to do it, that it could lead or would lead ultimately to a complete showdown which could mean a disastrous strike, both to the industry and to the men that worked in the industry.

The second alternative was to bargain with the employers for a change in conditions, for a reversal of the trend, for the elimination of restrictive work practices, sling load limits, double handling, gang sizes, to permit the introduction of machines and methods that would be different and meant to permit an efficient operation without the employment of the men, and over employment of the men, or without the featherbedding or contractual restrictions. The caucus authorized the International officers to explore [357] the latter alternative, that is, the alternative on endeavoring to bring out a new basic contract with the elimination of the items the employers were complaining about in the total industry, provided the employers would agree to two things or two categories of things.

One, that the employers would agree that in the event they could get an efficient operation by bringing out the changes they desired and thereby there was a saving of wage cost in manhours, that the employers would share with the union members the savings that would result.

The second condition was that if the employers were to agree to this principle in bargaining on this basis, that the ultimate bargaining would have to provide that any changes which would bring about greater efficiencies would not result in unsafe working conditions nor result in a speed-up of the individual worker.



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In other words, they were willing to talk about having the job made easier, though this might lead to increased productivity, their position being that their concern was not with productivity. Their concern was with working conditions, and if we could accomplish the productivity that was our business, but that we would have to pay a price for it, and that the price would have to be with certain safeguards with regard to the individuals.

With that authorization, the union officials met [358] with our negotiating committee because we were coming into a period then where the contract was about to expire. This was the first time in about ten years, because the contract up to that time had been allowed to be extended over each period of termination, so that we had a continuing relationship with arbitration in the event of dispute.

When we met with the union with this negotiation approach, and the union outlined to us their point of view and the proceedings they had had, and by way of digression they sent us a complete copy of the proceedings, so there was no secret about what the discussions had been or what the recommendations had been or what the proposals were that they intended to make to us; and following this preliminary meeting with the union it was my responsibility to negotiate, if you please, with the members of PMA, that is, the stevedores, the terminal operators and the steamship companies, as to whether or not they would be willing to negotiate a new type of labor bargain whereby the employers would concede that they would buy out the bad practices both under the contract and outside the contract for a price, whether they would gamble that the improvement that could result by greater efficiency and productivity on the docks would pay off as a labor bargain.

I can assure you there was considerable difficulty in convincing the employer group that this was the proper [359] procedure for bargaining. It was rather untraditional. The arguments were obviously, we believe that

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we should pay a price for these changes, and the union agrees that we may make them. Our past record and the union's past record indicates that we would probably not have a delivery of the things that were promised.

However, by a series of rationalizations primarily based on the idea that, after all, we had been paying good money for bad performance of the years, that it might be worth while to take a look at paying the same money for a better performance and gamble on it, that we couldn't be any worse off, and with this ultimate decision by the steamship operators, including the foreign lines and the stevedores and the American flag group, I was authorized to advise the union that they wanted to bargain with them for a completely new type of labor contract, that we wanted to bargain with them for a contract which would wipe out the restrictive practices of the past, even the history that led to them, a contract which would allow us to operate efficiently without unnecessary manning and, in turn, for this type of negotiation, a contract, if we could reach it, that we were prepared in some fashion to share with them as employers in the industry a portion of the savings that would result to us if we could improve our operation and increase our productivity.

[360] Neither of us at that time, and the history that follows will illustrate this, had any specific notion of just how you would go about this thing, how you would accomplish it by way of contract change, and what the price would be that you would pay for it, and the measure of that price in relation to the industry.

It was about at this juncture, in order to clarify in some measure the new areas that we were about to invade, that this document that you are now referring to was prepared.

Q. This is a document which hasn't been admitted in evidence, and it is one of the few, I guess.

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(Laughter.)

Mr. Ransom: Do you want to follow your practice of finding out if there is any objection?

Examiner Theeman: Let's go off the record.

(Discussion off the record.)

Examiner Theeman: On the record.

The Witness: Following the events I have described, it was specifically agreed with the ILWU and the PMA negotiating committee that we would carry on unofficial discussions to the end that we might arrive at a new type of contract, and because we were, neither of us, prepared to come to grips with the details of the situation, PMA prepared a draft document which outlined the understanding [361] as to the nature of the discussions and some of the background history, the references that we have talked about, such things as mechanization and automation, containerization, but that we were actually talking about something much broader than this, that we were talking about changes of traditional method of cargo handling with or without mechanization, but merely the change of bad practices in connection with normal cargo operations.

Then we endeavored to state, as the document indicates, the specific objectives that each side had in mind to achieve, and the things that the union in turn would want by way of guarantee on its side in the event that it agreed to the employer's objectives being accomplished.

This document that has been presented here as it indicates is the ILWU redraft of the document that we presented to them and, as I recall, the only changes that were made in the document were by the ILWU, and were minor changes in the listed objectives of the union.

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We had no objection to the changes that they made, and this then became, though not signed, a part of the negotiating record before that period, and was the beginning of the long bargaining which continued from that time forward until we were able to conclude as we bargained on the subject of what is now referred to as mechanization and modernization on the 18th of October, 1960.

[362] Examiner Theeman: Excuse me just a moment. Without objection, the document just referred to as the ILWU redraft is admitted in evidence as Exhibit 54.

(The document above referred to was marked Exhibit No. 54 and was received in evidence.)

*By Mr. Ransom:*

Q. This document didn't call for any payment of money at that point? A. It did not. This, as I indicated, was simply to outline the philosophical areas that we were about to discuss and the practical things that we hoped to accomplish and, as you will note in the first paragraph, both sides agreed at this stage that this was an unofficial discussion.

Q. Would you then state when the first fund was established in connection with this program, and how much it was, and how it was established, and what was it supposed to accomplish? A. Well, I am trying to keep my years straight now. In 1959, we first established an arbitrary fund, an arbitrary amount of money, to the extent of a million and a half dollars, which was in effect a payment of earnest money.

Examiner Theeman: Did you say earnest money?

Mr. Ransom: Yes, sir.



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The Witness: Earnest money—to demonstrate to [363] the union that we were not just talking but seriously intended to reach a conclusion with them if we could find the method of doing it.

Prior to that time, prior to the 1959 agreement on this basis, and during the previous year, during 1958 discussions, we had talked at considerable length about wanting to pursue this idea, wanting to reach an agreement. We had undertaken abortively a number of attempts to establish various methods of measurement of productivity in the industry without success.

We were pretty much floundering for a way to reach an agreement. At the same time, changes were taking place in the industry, and the union was tightening up more and more in objection to these changes particularly, and again referring to the Matson operation where the union took the position that where containers were now beginning to move over the docks in number, that these containers, themselves amounted to a violation of the longshore agreement in that, one, they were either the farming out or subcontracting of longshoremen's work in that other people were loading the containers away from the docks; secondly, that if it was not a farming out of their work which was forbidden by the contract, that it was an attempt by the employer to evade the sling load limits; that is, the same cargo which otherwise would be subject to restrictions were being placed in [364] containers away from the dock, that this was not a true shipper's package load and, therefore, this was an evasion of the contract.

Other resistance had occurred in the past with regard to changes of the method of operation, for



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example in the case of packaged lumber where a strike had stopped that operation, and where the union had gained a specific penalty pay of a dollar an hour permitting the employer to utilize the method that he wanted to use in handling cargo, and generally the pressures were tightening up day by day, by way of continued resistance on the part of the union to any contemplated changes, whether they were permitted by the contract or whether they weren't.

So when we came into the period of negotiation in 1959, and we in effect said to the union that we are still trying to devise a method of accomplishing these things, we are still trying to find a method of compensating you for the things we want back, they said in effect, that is fine. We have heard that conversation now for the last two years. Now it is about time for somebody to give us something more than conversation if you want us to permit you to even experiment in these areas.

And at that point we reached the conclusion that employers frequently are faced with, we might have to put some money on the line to be able to even continue [365] discussions.

I can recall that when I faced the employer group or negotiating committee and board of directors with this dilemma and told them that I thought that we should make some type of down payment, even though we had no formula yet devised for contract change, I was told that I was proposing that we bribe the union to permit the employer to do the kind of a job he was entitled to do, and I remember reporting this to the union negotiating committee, and I can recall Mr. Bridges' response saying, "Call it what you want. We don't mind. We are not thinskinmed. So it is a bribe. But if you want to get the changes

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that you are asking for, if you are going to take back from the men the things that they have achieved, whether up your spine or not, you are going to pay for it."

So it was on that ground or in that area that we decided that there was enough possibility in the ultimate total bargain to justify the payment of, as I say, earnest money or the demonstration of our sincerity which can usually be measured in business in dollars by making a substantial down payment.

*By Mr. Ransom:*

Q. Mr. St. Sure, at that time, in 1959, when that was made, was the contract open? Were you also negotiating wages and increases in wages, fringe benefits, welfare plans, or [366] were you only talking about this? A. No, by this time this was a part of the total review; I mean at the annual period under our contract the union gives notice of its demands, and the employer in turn gives notice of his demands, if he has any, and the employers under normal conditions, except for the period of expired contract, as there was I believe in '58, where the contract continues, the review is during the course of the contract.

Negotiations go on for a period of 15 days. In the event there is no agreement reached at the end of 15 days, automatically all issues go into arbitration, and the arbitrator is required to make his decision within 15 days thereafter by a specified date to avoid the problem of retroactivity in this complicated industry, so we were at a period in 1959 of a general contract review, and one of the specific items for review was the question of mechanization, automation, what have you, plus wages, plus fringe demands, plus welfare, plus everything else, so it was part in 1959 of the total negotiation.

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It was merely one item of a list that the union presented. We resolved that item by putting it aside in the sense that we did not reach a definitive agreement as to contract change. We did, however, propose to the union in our first offer that we would make a payment into a [367] jointly trustee fund of \$1 million, in return for which the union would, one, concede that we were in good faith in pursuing our negotiations in this area in the future; two, that they would agree that this would be a payment for whatever changes had occurred up to that time, so that we wouldn't have to be reaching back to price out earlier changes, some of which had occurred already, and, third, that we would be allowed to continue experimentation provided that we would in effect freeze all of the existing bad practices, at least for the period of the year, that we would not seek to undo some of the things that we said we ultimately wanted to buy out.

I can remember when the million-dollar figure was presented, Mr. Bridges, who was the sole spokesman for his negotiating committee, which is an elected committee, inquired of me, "Where did you get the million dollars?"

And I told him that it had no relation to any measurement of saving or any formula that we had been able to devise, but that we did believe that the pressure from the unions who reversed the whole trend again, and to repudiate the possibility of future agreement, required us to make some demonstration of our good faith, and we felt that this could only be done by naming a substantial sum of money, but inasmuch as we had a payroll of \$125 million for long-shore operations on the coast, the million dollars sounded to us [368] to be a substantial sum. It was a nice round set of figures, and that this is where we got the million dollars.

He said that they would consider it and would meet with us the following day, I believe, and when we met the following day he said, "Our price is a million and a half."

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I said, "Where did you get the million and a half?"  
And he said, "The same place you got the million."  
So that is how we arrived at the figure of the 1959 fund.

(Laughter.)

Mr. Ransom: It is 12:15.

Examiner Theeman: Is this a good time for you  
to break?

Mr. Ransom: Yes, sir.

Examiner Theeman: We will recess until 2:00  
o'clock.

(Whereupon, at 12:15 o'clock p.m., a recess was  
taken until 2:00 o'clock p.m., the same day.)

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[369] Afternoon Session 2:00 p.m.

Examiner Theeman: On the record.  
Would you read back the last couple of sentences,  
please.

(Record read.)

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Whereupon, PAUL ST. SURE resumed the stand and, hav-  
ing been previously duly sworn, was examined and testified  
further as follows:

*Direct examination by Mr. Ransom: (Resumed.)*

Q. Mr. St. Sure, that million and a half was in the June  
1959 negotiations period, wasn't it? A. That is right.

Q. And I think you stated this morning that agreement  
had been reached in '58, and in '59 it was merely a matter



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of arbitration. Do you wish to make any correction of that statement? A. Yes, I think that I was confused as to the sequence of years. The '58-'59 situation—actually, the contract which would have expired as of June '59, actually we were negotiating in '59 against the possibility of strike for the first time in a good many years because we had previously had this practice of extending the contract always a year or [370] two beyond the actual expiration date.

Q. Was the matter of the million and a half an issue which involved the possibility of a strike? A. It involved the possibility of a strike in either one of two areas; either that we would be paying more money with no chance of improving the contract conditions under the union pressure to not only continue, but expand these resistances, or if we insisted that there be some improvement in the contract by way of removing restrictions and bad practices without having paid a price for it, I am sure that we would have gotten a strike in either area.

Q. Was there a memorandum of understanding resulting from the June '59 negotiations? A. Yes, there was.

Q. I will ask you if you can identify Exhibit 1-A as being that memorandum of understanding. A. Yes, sir.

Q. Did that call for a review, then, in 1960 of wages, mech fund, and welfare plans, and what-not? A. Yes. In addition to avoiding the strike possibility and arriving at the quid pro quo, I mentioned about the buying out the past changes, and freezing the restrictions for the period until the next negotiation, we were able to buy a three-year contract at that time, that was extending the period of the contract over the period of the [371] next three years with the usual provision for the review on the anniversary date in June, and one of the things that was then subject to review was specifically the matter of wages and, of course, the mech fund or mechanization, and the other issues that were subject to review under the memorandum that we signed at that time.



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Q. Then you attempted again in 1960 to work out if possible some arrangement which ultimately resulted in the present modernization and mechanization fund plan, is that right? A. That is correct. My recollection is that the union presented four issues for review in 1960: wages, I am sure, mechanization fund, I am sure, and either welfare or pensions, but there were other issues, but the principal ones were the issues of wages and so-called mechanization program.

Q. Did you actually reach an agreement by June 15th then, of 1960, on all of those matters? A. No, we did not.

Q. What happened? A. At the beginning of the negotiating period—and I stated this morning by contract we were now in a three-year term with the usual provision for review and arbitration which permitted 15 days of negotiation, and then the automatic reference to arbitration, and when the meetings first began that year, the ILWU took the position that they [372] assumed that they were not ready to bargain to a conclusion to the mechanization issue, and I may say parenthetically that during the period of the year that intervened we had continuing informal discussions with the ILWU.

They knew that we were probing for productivity measurements, and that we were having problems within our own group, so the suggestion that was made by Bridges at that time was that, inasmuch as we were not ready to proceed, the union was prepared to set aside the mechanization issue for another year and bargain only on the remaining issues of wages and other fringes provided we would pay this year \$3 million, and again the colloquy of where did you get the three; well, it is just twice one and a half—(laughter)—and we told them that we were not prepared again to pay a sum of money arbitrarily, and we were prepared to negotiate the problem of the mechanization fund and the contract changes during the

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then pending negotiation, and that we would not pay any further arbitrary fund really for the purpose of buying time.

We then proceeded to negotiate or attempt to. Both sides realized that there were many detailed items of discussion to be worked out that could not be worked out in a period of 15 days.

Candidly, neither side wanted to risk going to an arbitrator for this determination of this issue that was [373] so complicated that we couldn't develop it, much less leave it in the hands of a third party.

So, in effect, we stopped the clock as against the automatic provision for going to arbitration and continued to negotiate until finally an agreement was reached on the 18th of October.

Q. And that agreement was that which is set forth in this memorandum agreement of Exhibit 1-B, is it? A. That is correct.

Q. And roughly, very briefly, what does that agreement consist of as to the wages, welfare, mech fund, the broad outline? A. The basic wage adjustment, as I recall, was eight cents an hour. There was a formula based on passed negotiation that relates that eight cents an hour which is eight cents on a six-hour straight-time day, to a greater sum for clerks who work on an eight-hour straight-time day.

I think that figure was ten and a half cents an hour, to equate with the eight cents an hour. In other words, this is an internal formula. The two normal straight time days, which are artificial to be sure, also do bear a relationship in take-home pay, so this adjustment was paid in wages.

There was likewise an adjustment made in the welfare, I believe, by increasing the contributions to the [374] welfare fund, and there was a detailed agreement with regard

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to so-called modernization and mechanization fund, or work practice fund, and it had a variety of names during the negotiation.

Q. Was this all one package, then, these various items?

A. Yes, these issues were all issues in the single negotiation and were all part of the review that was conducted at that time.

Q. During the course of negotiations, was any consideration given to—instead of creating a fund, simply giving an additional wage increase which would buy what the mech fund was to buy? A. Well, there was consideration given to it, both from the point of view of the employer's philosophy of this, all added up to a wage cost package in whatever form it was ultimately agreed to. The union, however, took the position during the course of these negotiations that, inasmuch as we were interested in buying out work restrictions, this could not be done on the basis of a mere wage increase.

I recall specifically that Bridges made the statement with regard to the sling load limit alone, that if we wanted to offer a dollar an hour we couldn't buy out that restriction on the basis of a wage increase. It would have to be done in some other form. It would have to be done in [375] the form of providing a protection against the loss of work opportunity which they believed and which we wished would result from the revision of the agreement.

Q. If instead of five million per year that would be converted into a wage increase, have you any idea what that would amount to? A. At a dollar an hour, it would have amounted to \$25 million on that one item alone.

Q. My question related to the five million that was finally agreed to. If that had been converted into a wage increase, how much of a wage increase would that have been? A. Eighteen, 19 cents an hour, possibly.

Q. In addition to the eight cents? A. Yes, sir.

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Q. Will you state what in your opinion the mech\*fund then did buy for the employers? A. Well, I think the simplest statement is the language now contained in the contract itself, as well as in the memorandum upon which it is based, that the employer would be entitled to operate efficiently, that he could change method of work, he could utilize labor saving devices, and that he need not be required or expected to employ unnecessary men.

Now, this specifically meant, by way of change, if I may singleout one individual item of restriction, it meant the elimination first of a practice known as multiple [376] handling of cargo in many ports.

It meant the elimination of the sling load limit that had been imposed upon non-listed cargoes by job action. It meant the elimination of the sling load limit, as such, in situations where either men or machines were added to move the larger loads. It meant the elimination of frozen manning in various operations.

For example, as the change had come in years past from handling grain or sugar in sacks to so-called bulk operations, the machinery had been added and, whereas no more than two or three men would be required to manage the operation of loading bulk sugar, we were still settled with 20 or 30 men, the same number of men that used to handle the sugar or grain when it was in sacks.

It meant that we could eliminate that type of feather-bedding, and I can cite many other examples of a similar nature.

It meant that in any operation that we could introduce that the employer would be the judge of how many men were to be placed on the job. In the opposite situation, where an existing operation was unchanged, we had the right to request a reduction; in the event the union agreed the reduction was made. In the event the union disagreed we went to arbitration.



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In the reverse situation of the new operation, the [377] union had the opposite right. If they challenged our number of men, they had the right to appeal and go to arbitration, but we could initiate the number of men in the new operation. It means that wherever there were restrictive provisions in the contract, they were no longer frozen. It meant that a specific procedure was devised for the correction of any restrictive existing measures, any excess manning, and essentially that we could operate efficiently without featherbedding on the job and without work restrictions.

Q. Did it include the opportunity for technological advances in the industry which did not exist before? A. Yes. As I say, specifically, in addition to the removal of work restrictions and featherbedding, as such, I should say in this industry the term is not featherbedding. They are referred to as "witnesses." (Laughter.)

And it did mean the removal of witnesses in those operations where they existed.

With regard to new methods, the introduction of machinery, as distinguished from a normal or traditional operation, conventional operation of handling cargo, it meant that we had the right and specific agreement that we could introduce new devices, new machines, new types of vessels, whatever, in this area that we might contrive without union resistance and indeed with the right to determine initially on the employer's side how many men should be [378] required to operate such a new device or new operation.

This did result and has resulted in some rather dramatic changes in operation on this coast which have come to us automatically.

Q. Did you also buy the right to continue any improvements that had resulted since the 1957 memo? A. That is correct; changes that had taken place, for example, in the packaged lumber operation which had been subject to chal-



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lenge were both bought out, one by the million and a half dollars, combining down payment, and this was reaffirmed in the ultimate agreement on October 18th, 1960, that these changes that had occurred were no longer and could no longer be claimed as a violation of any part of the old agreement or the new agreement by the union and, in effect, were bought out.

Q. Did the contract terms change at this time when you completed your agreement in October of 1960? A. Yes, very definitely this was tied in to part of the total bargain. Up to this time, we had never had a contract for a longer term than three years. The ultimate bargain on the mechanization fund or modernization fund by its specific terms extended over a period of five or five and a half years.

We insisted that, since this was part of the total bargaining package, and since it was an issue in the [379] contractual discussion that it had to be a part of, and of the same term as the bargaining agreement of which it was a part, and that the contract basically, therefore, should run for the same term of the years that the period of the mech fund was to cover, and indeed the extra six months was tacked on because there was another expiration date of a pension program which had been separate from the contract by way of separate agreement, and so as a part of the ultimate deal on the 18th of October, the basic contract, including the mechanization program, was tied down for a period until 1966, extending over a period of more than five years, which was a part of the bargain, also.

Q. And during that five years, the union's right to strike would be by reason of the extended contract restricted, is that right? A. That is correct.

Q. Did the agreement require—that was reached in October—did that require ratification, then, by the union and by the PMA? A. It did.

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Q. And it was ratified by the PMA when? A. Early in January of 1961.

Q. Under that plan, as finally negotiated, who was it that was to determine the method of collecting the five mililon per year? [380] A. Well, PMA during the negotiations insisted that PMA would have to determine the method of collection, although this was a subject of negotiation during the course of the negotiating period.

Q. Were the negotiations on the issue—

Examiner Theeman: Is this the interpretation of Mr. St. Sure on the agreement, or is this what the agreement was, because I am sure the contract will speak for itself, Mr. Ransom.

Mr. Ransom: I am not sure I understand.

Examiner Theeman: What is the purport of your questions now to Mr. St. Sure?

Mr. Ransom: The purport of my question now was simply what was the result of the negotiations, and I think he answered.

The Witness: Well, I think—

Mr. Ransom: Excuse me, Mr. St. Sure.

The Witness: Pardon.

*By Mr. Ransom:*

Q. I think you did answer that, and my next question to you is, to what extent was the matter of the determination as to who was to pay the fund and how it was to be arrived at, to what extent was that part of the negotiations with the union? A. It was a definite part of the negotiations in that [381] the union took a position with regard to the method of collection. PMA took a position with regard to the method of collection. There were discussions with the union during negotiation as to the problems that had been

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presented by the method of collection used with relation to the million dollars and a half.

We discussed with the union the differences of opinion among our own members as to the equitable method of providing for the collection of this money.

We ended up with an agreement by the union that, inasmuch as the employer members of the bargaining unit had committed themselves specifically to the payment of the sum, that whereas they were interested in the assurance that the sum would be collected, they would allow us to work out among ourselves the method of actual collection within the membership of PMA.

Q. For example, was a productivity method discussed in your negotiations? Was a tonnage method discussed? Was a wage and hour method? Were these various methods discussed in these negotiations with the union? A. Yes, sir. If I may go back a little, the initial million dollars and a half was a commitment by the PMA members to pay that amount of money to the union, and at that time the union had definite ideas of how it proposed to spend it, which they later changed.

[382] That money was collected on a manhour basis, and because the question was raised within PMA membership as to the validity of this approach, the position was taken by many of our members, including those who said they didn't contemplate mechanizing, that this was in the reverse position, and actually that there should be a relationship as between any fund that might be in the future contemplated, and the actual saving of manhours that might result to an individual employer.

Our first discussions with the union during the 1960 period were on the basis of attempting to arrive at a formula which would measure productivity as such and would relate savings or relate payments to manhours saved.

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We had done a good deal of experimentation, and investigation, and study in this area, and from our own point of view as employer had rejected this approach on two grounds at least. The most practical reason for rejecting it was that it was found rather quickly to be an attempt to measure operation by operation productivity on a particular type of cargo or operation, so complicated by such things as weather, type of vessel, type of pier, congestion in the area, a particular crew that might be working on the job, and a variety of other things, that the fact that we had some five or six hundred cargo items to deal with as well as vessels of all types, that this would be a statistically impossible [383] thing to accomplish, and the second reason was that the employers were fearful that the measure, if the measure were provided in this fashion, that if we achieved the ultimate of arriving at a minimum number of men on the job handling a maximum amount of tonnage, that the fund would become kind of a monstrosity; I mean you would have the last man club we were talking about who would be pushing the final button, and yet you would be relating a fund to 30 million tons of cargo, and you would be building up a great fund which would not have any relation to anything in particular which was left on the job, and there were serious discussions by employer groups, not only on this coast but from other areas which led to the rejection of this type of direct measurement paying into the fund because the conclusion was reached that what we were doing was not establishing something forever, but we were buying out over a phasing period certain contractual restrictions that we would pay a price for and be done with it, and then face the next bargain.

So this was discussed with the union as part of the negotiations, and we told them our reasons for abandoning this approach.



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This union then proposed first a direct approach that for every man hour saved, regardless of how it might be saved, whether by way of better supervision or better facilities or better discipline, or by the introduction of [384] machinery, that we should pay into the fund one straight time hour of wages, their reason being that our fringe costs were so high that we would be making a substantial saving in fringes and lack of overtime, welfare, and pension payments, and that we probably could avoid the tax upon this money that would go into the fund, and we rejected that as being too arbitrary and too obvious a measure which we thought likewise would have problems of reporting and relating.

The union then took the position that we should collect the fund by a tonnage tax, and I think I should comment on that, if I may.

In looking over the report of Mr. Teige's committee, the majority report, I note it states that the union did not request a tonnage assessment.

Q. You are referring to what we call Exhibit 5-A.—  
A. I think—

Mr. Torre: • And B.

*By Mr. Ransom:*

Q. 5-A and B? A. Well, on page 6 of that document, as I remember it, there is a single statement that the union—"This is particularly true since the union has never urged a tonnage formula as a means of paying for the fund."

The members of the majority group of that committee had not been on the negotiating committee. They were [385] appointed by the negotiating committee for a particular tax, and this is simply based upon wrong information or lack of information.



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The union did insist—particularly Mr. Goldblat, who was the secretary-treasurer of the union—that not only should the mechanization fund be based upon a tonnage assessment, but that all fringe benefits under the contract should be converted to a tonnage assessment, and this was the subject of very considerable discussion during the negotiation period.

Indeed, at one of the meetings—I think the ninth—we had some 40. We had Bridges himself proposed a formula in which he proposed that we apply a 29½-cent tonnage tax on all tonnage as the method of raising the fund that we were negotiating for. We rejected the proposal of the union that we agree to the method of collection on the ground that primarily we were fearful that if by contract we agreed to a tonnage tax, that this would become a contractual formula which would persist beyond the five-year term, and that we would find ourselves discharging cargo or the commodities we were handling; and we stuck with this as a principle for the future.

We rejected it both as to the conversion of our other fringe benefits to a tonnage tax, and we rejected it as a contractual basis for raising the money for the [386] mechanization fund, and we specifically told the union why we were rejecting it, and that we would commit ourselves jointly, and severally, to the raising of this money, but that we insisted that it was a matter within PMA to meet its contractual obligation as a part of this bargaining process that we had been going through, and that we might adopt a tonnage tax measure; we might adopt a manhour measure. We might adopt a combination of those, or we might find some other method of doing it, but that this we were going to reserve as a part of the implementation of this bargain that we had made.

Q. As part of the negotiations, the union did finally agree to what you were insisting on in determining the

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mech fund? A. They did agree on the basis of assuming our obligations that the monies would be forthcoming.

Q. Mr. St. Sure, once that agreement was reached with the union, was the situation that the union lost all interest in the method of collection? A. No.

Q. Or would you say there was a continuing interest? A. There was a continuing interest and a continuing concern as to whether or not the collections under the fund were being met. Obviously they have, by joint trusteeship, joint custody of the fund, and I can assure you that they [387] were alert as to whether or not the method of the custody, was working, because they believed this and, in fact, knew it was their money to spend in accordance with the agreement.

One of the reasons in connection with rejecting the union, on the East Coast, a similar situation had arisen with the FLWU on the Port of New York previous to the last strike with the same issue which is now being reviewed by the Undersecretary of Labor, and unresolved, and the union there took the position that any containerized cargo—and they singled out that particular item—should be assessed a penalty merely for the fact that it came in in a container, and the operators on this coast believed that this was a dangerous principle to single out individual cargoes, and say, "This will be taxed by the union for a particular purpose."

As in the case of Mr. Hopper's deal with the piggyback, five dollars for each container that goes aboard a truck, and so forth, the feeling here—right or wrong—was that this was an industry problem involving a total cost package, and that it should not be aimed at particular cargo movement.

Indeed, it was an obligation of the employers, as a group, to provide a total operation which would be available to all employers.

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[388] Q. Supposing that the PMA had adopted a system that, let's say, would result in abolishing whole segments of the industry, what would you think would have then been the union reaction? A. I am quite sure that if any agreement had been reached which would have brought about such a result, we would have an obligation, and I am sure the union would insist upon it, to reopen the bargaining and to resume the bargaining as to the means by which the funds were to be collected.

After all, this was a continuing relationship that we have, by the collective bargaining agreement, and my experience would suggest to me that we couldn't have adopted the method which would defeat the very purpose for which we had reached a bargain without having further negotiations.

Q. In your negotiations with the union on this M&M plan, was it a principal object of the employers to have all assessments of the industry, the stevedores, the carriers, the terminals, and various segments of cargo, all come out even without any advantages or disadvantages? A. No, this is something that is—whether this industry or any other that I know about—an impossible refinement to achieve. What this contract provides, and so described to our membership, is a blueprint which will give equal opportunity to those who work under it, and by that [389] I mean the employers who were bound by it, to operate efficiently, to make changes if they desired to, and to receive the benefits of the new agreement which eliminates work restrictions and so forth.

To this degree, the employers themselves may have control over what they can accomplish. It is obvious that investment of capital by one employer may produce a greater result of labor savings than would be available to the employer who didn't invest capital in new machinery, equipment or vessels. Indeed, this is one of the arguments

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that the foreign lines raised in the initial mechanization discussions, that they didn't contemplate mechanizing. The converse argument was that there was something in this for everybody.

There were things that had nothing to do with mechanizing. It had to do with work restrictions, but even the things that were available for mechanization were equally available to all employers to work under this agreement if they chose to operate in this fashion.

The matter of equal effect or impact on employers in a multiple employer group, I think obviously you don't get equal results.

In the canning industry, we have certain products that are so perishable they must be packed every day and processed the day they arrive, and yet a contract will [390] provide that Saturday and Sunday work will be at overtime, and the man who packs asparagus or peas, for example, must be paid overtime because he is an around-the-clock operation, in a sense.

Well, the other employer can avoid this type of penalty.

In our own operation during the 1958 negotiations, I believe we negotiated or agreed to an eight-hour guarantee for any longshoreman who was turned to as against the standard four-hour guarantee.

Our concern was in that negotiation that we would be guaranteed dead time; that is, there would be situations in which there wouldn't be work available. They might have a half a day's work and no more. We were likewise concerned with the fact that the inducement to guarantee the eight-hour day offered us by the union was that we could avoid specialization.

We had reached the ridiculous situation on this waterfront that a man working on the dock who was called in to palletize cargo, if he was asked to depalletize it would say, "Look, I was hired to palletize. I will pull it on the board, but I won't take it off."



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The shipping clerk would check out merchandise but he wouldn't check merchandise coming on the dock. He would say, "I am not a receiving clerk. I am a shipping [391] clerk," and I could suggest many other examples of his kind of tonnage specialization.

The clerks in that year came in with a request for 23 separate classifications of clerical work on what they call a chain of command. In order to bargain with the union, which was part of this bargaining process, for something that they wanted, which was the eight-hour guarantee, we said we will gamble with you provided you will wipe out all specialization on the docks.

A longshoreman is a longshoreman, and a clerk is a clerk. We reached an agreement that they would wipe out specialization, except that a man who was a skilled man or a skilled driver or a winch driver wouldn't be required to go down and handle cargo in the hold.

We likewise bought out what were known as the year priority limitations which was a restricted practice to prevent alleged discrimination.

We likewise bought something we had never had on this coast, the right not only to transfer men from ship to ship, dock to dock, and from company to company; we felt by getting this flexibility we would wipe out in large measure having to pay for dead time and would gain something.

In three months we ran a check of the actual result of that. Many of the objections from the employer's point of view were that this would result in an uneconomical [392] impact upon members of the industry.

We found after three months study, that actually the result from our point of view overall was a desirable one. However, it did occur that in a number of situations individual ships, individual cargoes were penalized, but the industry as a whole gained a tremendous benefit.



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So there was no exact equality of results, but the overall result was one that the industry bargained well for in our judgment.

Q. Mr. St. Sure, from your experience, do you know of other situations in other industries where a fringe benefit plan has been negotiated with the union and the method of raising this fund to take care of that fringe benefit was in the negotiations reserved to the employers?

A. Well, the most nearest parallel that I can think of, and I have represented department store groups in the joint bargaining, and the same thing has occurred I think in the milk industry where in bargaining for a welfare plan or a pension plan where you put a group of employers into a single package, and you have one employer who has been in business for ten years and one who has been in business 50 years, you necessarily have a different experience rating based upon the age group in the separate plants.

An old employer may have a work force which is an average of 50, and the new employer may have an average [393] cost of providing a hundred pensions, for example. These costs are quite different. The same is true with regard to welfare plans where age or sex will make a difference in the experience rating of a particular welfare item.

In these situations it is frequently done, and I have negotiated agreements where the employer agrees to guarantee a set of benefits and says to the union, "We are not going to tell you what the contribution is. We are going to provide within ourselves the method of providing the premium or the money required."

And then the employers themselves literally divide amongst themselves on an equitable basis how this money should be raised, which is not a part of the union contract.

The contract is to provide the benefit.

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Q. After the agreement of October 18 was reached, then how was it that you went about determining the method of raising funds? A. Well, during the course of negotiation, because of a division within our own membership, I made the commitment to the foreign line group, particularly, as well as to others not in the foreign group, that prior to ratification of the October 18th agreement, the method of collecting the money would be worked out internally within PMA and presented to our membership prior to ratification, so they would ratify both the October 18th memorandum and the method of collection at the same time.

[394] In order to accomplish this internal determination as a part of the ultimate bargain, the Coast Steering Committee, which is and was the negotiating group, named a subcommittee which is the Peter Teige Committee, and instructed that committee to consider the question of a method of collection, having in mind the various arguments that had been going on within the membership of PMA to make a recommendation which could be presented to the board of directors by the first of the year, and that in turn then presented to the membership of PMA for ratification.

Q. Was the fact that the Coast Steering Committee was a negotiating committee, did that fact have any bearing on why it was appointed as it was? A. Well, this was still part of the bargaining process. We were still actually trying to conclude the bargain which we had developed and had signed a memorandum to cover. We still had the responsibility as a negotiating committee of reporting back to the board of directors, and then to the membership, and this was simply a convenient means of calling in some men that we felt were more expert in this field than the negotiators were who were operating people to make a recommendation as to a method of payment.

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Q. And that committee did finally adopt a system of tonnage assessments? A. It did.

[395] Q. And that was ratified by the Steering Committee and by the board of directors and by the membership? A. That is correct.

Q. Subsequently, there was a change at some later period to include marine clerks? A. Yes, there was.

Q. Was there a precedent within the PMA machinery for contributions or assessments on a tonnage basis? A. Yes, for many years before my coming in to PMA there had been assessments for various purposes. As I say, we are a non-profit organization, and the assessments are to pay the operating costs of such organization and other things within the organization which are part of the collective bargaining agreement.

For instance, joint maintenance of the dispatch halls up and down the coast, some three-quarters of a million dollars a year goes to this operation, and the method of rating, both PMA fund as well as to meet such obligations under the contract, as the dispatch hall cost and the cost of paying arbitrators' salaries, and things of this kind which are jointly borne, has been assessed on the basis of tonnage.

Q. There has been a great deal of testimony in this case so far, Mr. St. Sure, on the method by which these tonnage dues, as well as the mech fund, are based, whether on [396] a weight or a measurement ton, and particularly as respects automobiles.

Can you state, if you will, how that method was determined for tonnage dues, as well as the mech fund? A. Well, the mech fund method was simply adoption of the method that had been in operation for many years for the same purposes and other purposes I have mentioned, and this was based upon the custom and practice of the maritime industry, and the tonnage assessment was based upon revenue tons.

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That is, however the cargo was manifested or freighted, and this being the accepted method within the industry competitively and otherwise for manifesting freight, this was the measure adopted in providing the PMA assessments.

On the basis of the industry itself having arrived at this method, therefore, we adopted it.

Q. And specifically as to automobiles, do you know how it was determined that they would be assessed on a measurement basis? A. So far as the automobile situation is concerned, with regard to off-shore or ocean operations, the practice of the industry as far back as memory seems to be in our organization, at least, is that the automobiles have been manifested on a measurement basis in these trades.

[397] The only situation that I can recall where this was even brought into question was at one time where somebody felt, well, maybe by reason of tonnage assessments in other areas, that somebody could get cute and could convert from measurement to weight and thereby save the assessment for normal association purposes, but as a matter of precaution our treasurer did send out a notice to all our members that, automobiles as such had been customarily manifested on a measurement basis, and that we expected them to continue to report and pay assessments for automobiles on this basis.

But this, as I say, rested upon what I understand to be the custom and practice of the industry.

Q. Where any attempt is made by the PMA to assess on a weight or a measurement basis in one particular way, if it were not the custom and practice in the industry what would happen? A. Well, I think we would immediately have it called to our attention, and I think if there were any variation from the industry custom and practice which varied from the practice that competitively we would hear about it pretty quickly.

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Q. Then under the agreement, who was to pay the contributions? A. The stevedore or the district employer of longshore labor.

[398] Q. Did you consider that only the stevedores and the terminal companies would be expected to get benefits out of this, or would you expect there also would be some benefits to carriers, or both? A. Well, the whole purpose of the agreement was to improve the efficiency of longshore operations which in turn means to reduce the cost of handling cargo and provide a more efficient operation which, in turn, relates to the faster turnaround time of ships.

We expected to reduce our direct labor costs, both on the average and in detail. By that I mean direct labor costs that the stevedore or the terminal operator had to pay out by having less manhours to pay for.

We likewise expected that, if there was a saving, that this would have some direct benefit to his stevedore and his relationship to his customer as to whatever bargain he made with them, and we assumed, also, that the carriers would probably be aware of the fact that savings were being made, and might sharpen up their pencils in bargaining with the stevedore.

It was ultimately possible, I suppose, that the shippers would get some benefits from this, too, but this was not a matter that we were specifically concerned with, except as a by-product that might flow from having a more efficient operation.

[399] Q. Did you and PMA or your staff inquire into or have knowledge as to how the stevedores themselves raised the fund, whether they passed it on, or whether they absorbed it in part or in whole, or what? A. We have no knowledge as to how this was accomplished, and I heard testimony this morning about what some of the arrangements may be between the stevedore and his customers, or



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between the steamship lines and the stevedore. We do not know. We have not been able to inquire into what these arrangements are. These are essentially bargains made between the stevedore and the direct employer and the terminal or the steamship line or the carrier, or whatever other customers he may have.

We know that by general experience of the industry, there are arrangements which are cost-plus arrangements. We know that more and more there is a tendency now to go back to the commodity type arrangements. We know that there are certain tariffs involved and certain freight rates involved, but these are not matters of our concern, nor are we allowed to be concerned with them by the people we represent.

Q. Did you in this negotiation or in working out this plan consider it as another labor cost or as some kind of a rate on cargo? A. This is part of the total cost package for the employment of stevedores or the employment of longshoremen [400] and marine clerks under a collective bargaining agreement. We regard it from the point of view of the bargaining responsibility we have as no different a cost than the payment of a fee into a pension fund or into a welfare fund or some other fringe benefit, except that in this situation we felt that we were getting something in return for our money rather than a mere added cost.

Q. The plan has been in operation now for a little more than two years. Will you state how the plan is working out? A. Well, the plan officially was put into operation early in 1961. We had an understanding with the union that we were trying to reverse 25 years of practice. We were going to change what the union people referred to as the tribal rights.

We were going to eliminate double handling of cargo. We were going to move larger loads. We were going to

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eliminate men and do many things that had been going on in the reverse direction.

We also had the problem that we were treading on the toes of the Teamsters Union and had been party to the other part of this double handling, and we had some jurisdictional problems that we weren't too sure we could work out.

We agreed that we would approach it gradually on a step by step basis, and during the period of 1961 we began [401] to phase in these changes, and we are still in the process of doing this. We haven't completed the total operation to our satisfaction as of now, so you can scarcely say we have had a full year even.

In '61, we had a partial operation under the plan, and we are still proceeding under the plan, but by reason of a controversial productivity measure that we have attempted for the first time in this industry, establishing a base measurement for productivity in various ports and for various commodities on the Coast which was established for us by Dr. Kossoris; we have a comparison for the year '61 against the base year of 1960, which indicates that there has been something over a million man hours saved during the period of comparison.

This is not entirely accredited to our judgment, the mechanization fund, as such. It probably has partially to do with the tightening up of decline. It probably has to do with this eight-hour guarantee inflexibility, but the net result is that we have reversed the trend.

We have some rough comparisons without detailed comparisons which we are still attempting to make of '62 as against '61, which do demonstrate that by going back to the year 1958 and comparing the total picture in '62, whether by reason of this fund operation which we think is largely responsible for the additional factors I have mentioned; [402] we have been able to absorb all of the rates

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that were made for the period 1958 until 1962, and still handle the same amount of tonnage.

We think that this is a rather remarkable result in any industry in these days and these times. We think a large portion of it is the result of the mechanization plan, and the change in attitude that has been accomplished as a result of the application of this plan.

In addition to that, to add a further comment to how it is working, we anticipated that the attrition of the work force under the employment which was frozen as a result of our experience under our pension plan would amount to about four per cent a year.

We felt that this would largely compensate for the reduced manhours without penalizing the man that remained on the job by too little work opportunity.

We found that by reason of the benefits that were built into the plan by the union by use of this \$5 million that we have, three of which go to provide for retirement benefits, and a reverse kind of severance—what they call a vesting severance—which they can take with them when they leave the industry, and life insurance provisions, the balance goes to a guarantee of work falling not below 13 hours of pay.

These inducements have actually stepped up or did [403] step up the attrition rate to some nine per cent instead of four, and we have now actually registered additional men into the work force, so even from the point of view of social accomplishment we might have accomplished something.

Q. Mr. St. Sure, supposing that pre-1957 a new mechanical device would be introduced by a stevedore company, and assume further that that device did not actually change the number of men required to do the job. What would be your view as to the acceptance of such a new device pre-1957 and today by the union? A. Well, I am not sure

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I understand. I can give you several situations. We had the packaged lumber situation which initially brought a strike and a specific penalty on permitting that particular operation to continue as an exception.

We had in the situation with the change from sack handling of cargoes to bulk where machines were introduced, and the type of vessels were introduced, but we still had to employ the same number of men. They refused to recognize that the machine or the adjustment led to labor savings, so we got the witnesses.

We had 18 men on the payrolls that did not work, but there they were. We had situations such as the Matson Hawaiian Citizen which not only caused union resistance, but we had a tie-up for ten days in the Port of Los Angeles, [404] simply by reason of fighting the machine or fighting the change.

Following the mechanization agreement, such vessels as the Zellerbach vessels which are now making amazing records of cargo loading on this Coast of newspaper printing, now, not only have they been operating but operating with a number of men the employer said should be on the job and no more, and this wouldn't have been possible prior to the execution of this agreement.

We were on our way to arbitration with the alleged violation of the agreement in the Matson situation in Los Angeles, and we were constantly finding resistance to the removal of men from gangs, and I can tell you now in the readjustment of gang situations alone we have not had an arbitration on this coast.

And we have not had a union challenge that has gone to arbitration on this agreement. These things wouldn't have been possible before.

Q. Well, would there have been resistance before to some new sling, some new method of loading, which didn't appear one way or the other, that it was going to reduce

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the labor, but simply was a new device? A. Well, we had situations that weren't even a new device. The pallet board is perhaps the simplest example that I can give you. In some local unions, including the [405] one in San Francisco, the union unilaterally determined the dimension of the pallet board that they would utilize. They had to have so many boards, and they had to be yea thick, and they had to be of certain dimensions.

My recollection is that the Army, which is a very large shipper of cargo in this port, actually procured a board which they felt could be produced or procured more cheaply than the ones the union had elected to approve, and some thousands of these boards were actually built, and not one of them was used. The union would not touch them until after this agreement was put into effect, and those boards are now in use.

They were safe boards, but the union simply resisted anything which the employer introduced, which was not to their particular unilateral liking.

Q. Are you acquainted with the improvement or lack of improvement by Matson in loading automobiles? A. I have some general knowledge about it.

Q. Do you for example have any knowledge as to the number of man hours or the cost of loading automobiles by Matson pre-mechanization and post-mechanization? A. I specifically asked the Matson people when the Hawaiian Fisherman, which is now the Hawaiian Motorist, was put into operation. My recollection is the figures they gave me that their cost of loading an automobile by [406] conventional methods on a Matson freighter ran around \$12 per car.

On the first voyage of the Motorist, I was told that the cost was reduced to \$4 per car.

In addition to that, not only of the mechanism which was introduced for loading, they of course did provide



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a converted type vessel to handle the cars almost on a parking lot basis.

In addition to the handling cost, of course, the ability to bring in this type of operation which was a combined mechanizing of the loading equipment, the conversion of the vessel, and the use of the automobile, it has a mechanical device to stow; whereas it would take five days at a minimum to load a vessel with automobiles by conventional methods, the Hawaiian Motorist now turns around at each end of the line in less than 18 hours, and the number of men involved would be less than a conventional gang as against five conventional gangs with five days as a comparison.

Q. Has there been a reduction in what is called slow-down or work stoppages since this mech fund has gone into effect? A. Well, ten years ago our daily record was one of work stoppages in every port. I would doubt that during the last year we have had three work stoppages on the entire [407] coast and by that I mean job action.

This has disappeared. I think it is largely a combination of many of the things we have been talking about, but a specific part of the elimination of work stoppages or job action is a direct result of the mechanization fund by-product, let's say.

One of the provisions of the October 18th agreement was a guarantee by the employer that the new operation would not be onerous, and I stress that word because it was a very high point of the negotiations.

Mr. Bridges himself dug this word up out of the dictionary, and we had a Webster's dictionary in the bargaining session while we were negotiating, and he looked up just what this word meant, but the real danger of the renewal of work stoppage under this agreement was the resistance of the men to things that might be new, and this onerous thing could well provide a new method of resistance and work stoppage.

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We reached the question, if any question of onerousness would be raised, the union officials who negotiated the agreement said, "Look, we have got to find a way to stop this. We have full-time arbitrators in each port." It was agreed that there would be no claim of onerous workload which would result in a work stoppage, that the men would immediately call for an arbitrator who would go to the site of the [408] work and would call it, and either tell the men to continue to work as directed or say there ought to be additional men or machines added.

This was fine in theory, but the arbitrators began having their legs run off at 2:00 or 3:00 o'clock in the morning, and the union agreed with us that they would develop a procedure whereby no man on the job would assert a claim of onerousness simply as a matter of a gimmick that any claim of onerousness would have to be made in good faith, and the good faith would be determined by having the business agent in the port go to the job, view the work, and then call an International officer in San Francisco and ask permission to call the arbitrator, and the International official said, "We will tell you right now we are not going to be talking to business agents at 3:00 o'clock in the morning," and that result has been that if there are arguments about onerousness the arbitrator is available.

We have very few of them, and this does keep the work going, so even this particular type of operation has been an improvement in the agreement reached on October 18th.

Work stoppages are now a rare thing, and job action is a rare thing on this Coast where previously it was a rule on a day to day basis.

Q. Mr. St. Sure, if as a result of this proceeding the Federal Maritime Commission should take jurisdiction of [409] this matter, and determine that the method of assessing automobiles was somehow illegal, what in your opinion

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would be the consequence<sup>1</sup> as to this plan? A. Well, I assume that the plan would immediately be in jeopardy in that we as employers are obligated to fulfill the commitment of \$5 million a year. We would still have to find some method of raising the money, and I think we might then call upon the Board to come in and tell us how to do it.

I think the union would expect them to do so, also, because this is getting into an area of collective bargaining relationships where a commitment has been made which has to do solely with the employer's obligation to meet contractual commitments to the employees within the bargaining unit.

I could visualize not only chaos but I think I likewise visualized the Board having to come in and call the shots on every bargain that we made here on out. Every agreement we make in relation to bargaining has an indirect effect—

Q. Including wages? A. Including wages, fringe benefits, sick leave, all the rest of it.

Examiner Theeman: Off the record.

(Discussion off the record.)

[410] Examiner Theeman: On the record.

Mr. Ransom: That is all.

Examiner Theeman: A five-minute recess.

(Short recess.)

Examiner Theeman: On the record.

*Cross-examination by Mr. Madden:*

Q. Mr. St. Sure, in the assessment of basic dues for the purpose of keeping the PMA running, which is based at least in part, as I understand it, on tonnage, who pays the dues on tonnage which is carried by a PMA member steamship company discharging on the Pacific Coast? A. The stevedore terminal operator. We have a variety of such

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dues. I mean a PMA member operating on the Pacific Coast as a steamship operator pays a separate set of dues to cover the cost of negotiation of offshore contracts based upon personnel employed aboardship, but the so-called cargo dues and the manhour dues are based upon the tonnage paid by the stevedore or—

Examiner Theeman: Let us go off the record a moment.

(Discussion off the record.)

Examiner Theeman: On the record, please.

The Witness: My understanding is that the member dues for PMA steamship company members may be paid either by [411] the stevedore or the terminal operator or by the steamship company directly.

However, the stevedore or terminal operator is responsible for the payment of so-called tonnage and manhour dues with reference to non-member companies that he may serve. This is consistent with the voting procedure in PMA where the stevedore can vote under our present by-laws the tonnage of non-member companies he serves, but the steamship line votes its own tonnage; in other words, extracts it from the stevedore who serves him and votes it himself, so for this or perhaps other practical reasons this is the alternate method of payment.

*By Mr. Madden:*

Q. I will refer you to Exhibit 35, which is a declaration or bulletin to members with reference to implementing the mechanization and modernization fund dated January 17th.

In paragraph 7, you will note that it provides that "Declarations of tonnages will be made, as in the past, by member steamship companies and contracting stevedores reporting for non-member companies and government agencies,



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being made in exactly the same manner by such companies as PMA dues."

Then am I correct that, so far as the basic dues are concerned, that the member steamship company might still report his tonnage and pay direct right to PMA the assessment [412] for those dues? A. I believe that is true, yes, sir.

Q. And for the shore members of the PMA, such as the stevedore and terminal operators, their tonnage dues in such situation would be limited to the tonnage handled for the non-member companies and government agencies? A. Well, that would be so. I mean the total tonnage is covered in one fashion or the other.

Q. Now, apparently from this bulletin originally it was contemplated the same method would be followed in collection of the mech fund assessments, but I understand that is not the case. Do you recall when that change occurred? A. Yes, I do. I think administratively, when the fund was initiated, Mr. Saysette's department, and I am sure with my approval, simply adopted the method that had been followed for the collection of tonnage dues.

We then learned that this was part of a bargaining agreement and a specific payment as part of the bargaining agreement, and because of the requirement that we had with the Internal Revenue's requirement that the assessment be paid directly by the employer of the labor, it was introduced and the instructions were therefore changed.

I should indicate that the entire approach, from the standpoint of it being a bargained benefit, was so novel that we were on rather strange ground with the Internal [413] Revenue Service in getting approval of this, and it was only with the specific assistance of the Secretary of Labor, who recognized the type of agreement that we had reached, that we were able to get the Internal Revenue Department which permitted the reductions to be made because part of the



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agreement that we had with the union was that the mech fund would not come into play unless it were approved by the Treasury Department, as a deductible item, as a wage or collective bargaining payment.

Q. As far as the basic dues are concerned, though, the tax problem, I assume you would agree does not arise if a member steamship company pays his dues directly to PMA?

A. I assume not. I hope there is no problem involved.

Q. But in order to qualify for this mech fund set-up, it was necessary to change the method so that the direct employers of the men made all the payments? A. Well, I assume a change was made to relate it to what in fact it was, a wage bargaining settlement.

Q. I believe in your testimony you stated rather clearly the distinction between the benefits provided in the labor contract and the method employed to collect that benefit.

If I wrote it down correctly, I believe you stated in effect the contract provides for the benefit, but the method of collection is no part of the contract. It is [414] between the employers themselves. A. Correct.

Q. And when the PMA ratifies the overall package, you might say, they in effect ratify the contract, and then they ratify the method of assessment at the same time. A. Yes, our own members required that the method of assessment be determined before they would vote on a ratification of the contract.

Q. I see. A. So this was part of the total ratification.

Q. I believe you also stated that it was recognized by the PMA and those who were working on the plan that the aim of the contract was to give equal opportunity to all interested persons to develop new methods of handling cargo, but it couldn't really be expected that equal results would result to all operations. A. That is correct. There would be differences in trade, differences in commodities, differences in money vested, differences in the imagination of the opera-

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tors to devise new methods. Each of these things would produce a different result.

Q. And each of these opportunities that you referred to as equal opportunity to adopt methods were available in effect to all members of PMA and not merely the stevedores or terminal operators, but they were intended to benefit [415] the steamship operators in turnaround time, improvement to vessels, and so forth? A. That is correct.

Q. To your knowledge, did the directors give any consideration to the effect of a tonnage assessment, based on this traditional method that the PMA used in basing dues, what effect it would have on actual stevedoring and terminal operations themselves, or was it just a convenient and available method to tie it into a revenue ton basis? A. I am not sure I follow you. The method that the industry had used in connection with tonnage assessments in other areas has been well established over a period of years based upon the custom of the industry in manifesting or freighting cargo.

I don't recall any discussion with regard to whether it was an improper method or whether anybody raised any question that it was. The basic debate in the industry was the question of manhours against tons. I mean this was the problem that we were wrestling with.

Q. But the method of collecting dues on a revenue ton fell on the steamship company which reported its tonnage and on the stevedore who reported the non-membership tonnage.

Now, in assessing for the mech fund the direct burden of paying for all this tonnage falls directly upon one of the two, that is, the contracting stevedore, does it [416] not? A. Well, the burden falls on the contracting stevedore in the same sense that a wage increase falls on the contracting stevedore. It falls directly on him where welfare charge or whatever goes into the package that you have to deal

*Paul St. Sure—for Pacific, Intervenor—Cross*

with the union about, these are total charges of labor costs which go into the bargaining agreement.

Q. What I am driving at, Mr. St. Sure, is you think that a revenue ton basis which is used by steamship companies in determining rates for carrying cargo is an appropriate measure in determining the assessment which would fall on the handlers of the cargo at the loading or discharging port, and when I say revenue tons I am talking about revenue tons for the purpose of measuring the tonnage which is assessed. A. Well, I can only speculate as to that. I don't know. I mean the whole area of rate making and things of this kind is completely foreign to me, and even the distinction between weight ton and revenue ton has been a mystery to me.

I can simply say that this was a method which the industry had used, and it was adopted. It was specifically referred to the people operating in the industry, both foreign and American interests, and they came up with a recommendation, and this was adopted.

[417] Q. How is the coastwise cargo charged under the mechanization fund; that is, it is loaded on the Pacific Coast and discharged on the Pacific Coast so that there are two handlings of the cargo. Do they pay a full assessment at the loading? A. Well, again, traditionally, there have been the recognitions of the fact that the same cargo was handled twice under the collective bargaining agreement, and with regard to the labor functions under PMA the coastwise operators, when they were still running, and maybe one or two occasionally now were given recognition of the fact that since this did relate to the collective bargaining agreement they shouldn't have to pay twice, even though there might seem to be some anomaly in this situation.

If there had been some agreement with regard to costs in that area or similar areas with regard to coastwise operators—

*Paul St. Sure—for Pacific, Intervenor—Cross*

Q. Is that true on carriage to the Hawaiian Islands? A. No, this was the Matson people who have a separate mechanization fund now which operates for the same purpose, so they meet it at both ends of the line.

Q. You referred to a packaged lumber penalty of \$1.00 per man hour which was negotiated at an earlier dispute in order to permit lumber to be shipped in packages. Is that correct? [418] A. That is my recollection of it. It was before my time, and I had merely heard of the Chamberlain dispute, and the resulting \$1.00 penalty to permit this particular method to be used.

That is my knowledge of it, based on that type of report.

Q. Do you know whether that penalty still continues?

A. No, I understand that only the coastwise operators are involved who are not members of PMA, but I understand that they have been able to negotiate some agreement whereby the \$1.00 penalty has been replaced by what the union regards as an equivalent payment under the mech fund, and the \$1.00 penalty, as such, has now been wiped out.

Q. Originally coastwise lumber was assessed under the mech fund, was it not, at 27½ cents per thousand board feet, as a measurement equivalent of tonnage? A. It could be. If this is so, I will accept it. I am not familiar with that detail.

Q. I believe it appears— A. Forty cubic measurement and 1,000 board measurement, constituting a ton on Exhibit 35?

Q. Yes, sir. A. Yes, sir.

Q. Do you know whether it is still assessed on this basis? [419] A. I do not.

Q. At the time that the formula of the assessment for the mech fund was adopted in January of '61, do you know whether the directors were aware of the volume of foreign automobile imports to the Pacific Coast at that time? A. Well, the matter was discussed, I recall, because the question was specifically raised as to the application of the



*Paul St. Sure—for Pacific, Intervenor—Cross*

assessment to foreign automobiles, particularly Volkswagens.

Now, what detail the questions in volumes of amount or what specific tonnage, I don't recall any specific question on that score.

Q. As an aside, do you attend the board of directors meetings? A. I preside at them.

Q. When the formula for the mech fund assessment was first adopted—that would be, I take it, about January 16, 1961, according to this memorandum—at this particular time were the directors aware that the assessment on unboxed automobiles would be on a measurement ton basis, or was that something that developed later? A. No, I believe they were aware of it. I believe the matter was discussed prior to the time of the membership ratification on the 4th of January. I think this was all in the package, and in the discussion, both before the [420] membership ratification, before the directors' second action.

The directors first voted to recommend to the membership and the membership ratified this action on the 6th of January. These matters were under discussion prior to ratification.

Q. Well, isn't it true that at the meeting, on approximately the 4th of January, there was no discussion as to how the tonnages would be applied; that is, on a weight or measurement basis? A. (No response.)

Q. Wasn't it merely a general resolution that the assessment would be made on a tonnage basis? A. I think this is true of the discussions. However, when I presented the matter to the membership, this was discussed in this fashion.

Q. In the two years during which the mech fund or the M&M program has been in force, can you state from these studies or reports that you had who has benefitted the most from the program? A. No, I cannot. The studies show averages on a port basis for commodities by group. They show that the principal benefit has been in the Port of Los



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Angeles. We would expect it to occur because of the lower base to start from. It shows that during some portion of the first year that actually we did less in the Northwest ports than we have been [421] doing previously on an average basis.

The reports we have do not enable us to pick out specific employers of individual companies as to individual cargoes.

Q. I would like to ask you your personal opinion as to whether a measurement ton assessment on automobiles at the same rate per ton as applied to other commodities, excluding bulk commodities, is an equitable basis for assessment. A. I don't know that I have any opinion on that. It would seem to me that if a measurement ton basis was used by the industry for the purpose of determining freight rates, it might well be used for some other purpose.

I simply have no opinion on the subject. I assume that we have been operating on what the industry's practice and custom has been with relation to applying charges to specific operations.

I mean the argument philosophically about whether or not for example a low cost cargo should have to bear the same rate as a high freight cargo, this gets into an area of economics I am not qualified to speak on.

Q. You are aware, though, are you not, that a full cargo of Volkswagen automobiles from a ship is an operation that requires both before and since the mech fund assessment a great many less manhours than cargo, generally? [422] A. No, I wouldn't know that. I frankly don't know.

Q. I assume, though, that this argument has been made to the board of directors by Volkswagen and others who have protested the assessments from time to time? A. The Volkswagen representatives did appear before the committee that was originally charged, and a committee which was later reconstituted, to again review the matter in response to a suggestion at the membership meeting that the total matter be reviewed within six months because of

*Paul St. Sure—for Pacific, Intervenor—Cross*

protests that were made specifically by Volkswagen, and some other cargoes, and the committee reviewed the matter, and their recommendation was that the method of assessment, as recommended, be continued.

Q. Do you know of your own knowledge whether Volkswagen has protested the entire mechanization assessment or only the amount of its impact upon its operations? A. I have seen correspondence where they have indicated they are not opposed to the total program, but they are opposed to its impact upon Volkswagen.

Q. It is true, is it not, that so far as the assessment on a measurement basis of unboxed automobiles, the increase in the cost of discharge is at a considerably higher percentage than for general cargo and bulk cargo? A. Well, frankly, I have never seen an analysis of [423] this. We have in the productivity report, as I recall, some 600-odd items of cargo. This might or might not be true if a comparison were made of all the items handled in a so-called general cargo operation.

I just don't know.

Mr. Madden: I think that is all, Mr. St. Sure.

Mr. Ransom: May we go off the record for a moment?

Examiner Theeman: Off the record.

(Discussion off the record.)

Examiner Theeman: On the record.

Without objection, a letter dated March 16, 1961, from PMA to its members, is admitted in evidence as Exhibit 55.

(The document above referred to was marked Exhibit No. 55 and was received in evidence.)

Examiner Theeman: A letter dated December 14, 1961, from PMA to its members, Exhibit 56.

*Ellet G. Horsman—for Respondent—By Examiner*

(The document above referred to was marked Exhibit No. 56 and was received in evidence.)

Examiner Theeman: And a letter dated December 20, 1961, from PMA to its members, is admitted in evidence as Exhibit 57.

[424] (The document above referred to was marked Exhibit No. 57 and was received in evidence.)

Mr. Ransom: Thank you. I have no further questions.

Mr. Zimmerman: I have no questions.

Examiner Theeman: Thank you very much, Mr. St. Sure.

The Witness: Thank you.

(Witness excused.)

Examiner Theeman: The hearing will be recessed until 2:00 p.m. tomorrow.

(Whereupon, at 4:20 o'clock p.m., the hearing in the above-entitled matter was adjourned, to reconvene at 2:00 o'clock p.m., Friday, April 26, 1963.)

\* \* \*

[427] Whereupon, ELLET G. HORSMAN, was recalled as a witness by and on behalf of the Respondent, having been previously duly sworn, resumed the stand and testified further as follows:

*Direct examination by Examiner Theeman:*

Q. Just to review a moment, Mr. Horsman, under some questioning by Mr. Madden, you stated that in January 1961 there was a meeting at the PMA which you attended, and it was also attended by a number of other stevedores, and you gave a list of the number of stevedores that were there at that time.

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As I recall it, you listed among the stevedores a number who were handling Volkswagens and a number who did not handle Volkswagens, is that correct? A. Could I have a review of the names I mentioned? I think the names mentioned were primarily the stevedores who at that time were handling Volkswagens, and that is why the names were still familiar in my mind.

Q. Well, I don't have the list of names. They are on the record, and I believe under subsequent questioning there [428] was a statement by you that some of those stevedores did and some of them did not handle Volkswagens.

Do you recall whether that is correct, or would you care to list again the names of the stevedores that were there? A. The names I believe I mentioned were—I will give the surnames, Ebby, Smith, Anthony and Whisnant.

At the time, these were men who represented their stevedoring companies, and at that time had or were going to handle Volkswagens, but they are primarily not only contractors who only handle Volkswagens.

Q. Well, do you recall any other stevedore? Again on the record I believe these were more than five named by you. A. In fact, there was a representation of all the stevedoring firms on the Pacific Coast.

\* \* \*

[429] Q. Now, will you state for the record what your experience was with the common carriers? A. Pertaining to vehicles?

Q. Pertaining to vehicles. A. There are several common carriers in which Marine Terminals Corporations have contracts with that have carried cars over the past three years.

Other than Volkswagen's objection to the method of assessment, strong objection has also been given to us, both orally or verbally, and through written comments

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from [430] Hanseatic Vaasa Line who, next to Volkswagenwerk, are our largest account carrying automobiles for discharge on the Pacific Coast.

The other carriers which I have named earlier gave no written comment, and if they had given verbal comment, whether for or against, I cannot remember. They could have directed their comments to other members of our firm.

Q. The common carriers paid the bill? A. The common carriers have paid the bill.

Q. Are they still continuing to pay the bill? A. They are still continuing to pay the bill. However, we have been put on notice by the Hanseatic Vaasa Line that they expect equal treatment from our association, Pacific Maritime Association, as would be given to Volkswagenwerk.

Q. And your bill shows still the mech fund assessment as a separate item? A. Yes.

Q. For automobiles, whether it is a Volkswagen or other automobile? A. No, in billing a common carrier we only show the total amount of tons that are assessed. In other words, if you have a thousand measurement tons of automobiles and 200 weight tons of general cargo, your invoice would show 1200 tons as the mechanization fund.

In the bill of itself we do not break down between [431] automobiles and general cargo, but it is there.

It can be ascertained from the body of the bill, but actually extending the assesement it is not separated from general cargo.

Q. That is your grand total of assessment? A. Yes, sir.

Q. But the assessment itself is broken down by individual items to show the amount for the mech fund and the amount for general cargo? A. Yes.

Q. Excuse me, the amount for the mech fund for automobiles and the amount of the mech fund for general cargo? A. No, it is all lumped together. I mean it is just the total amount of revenue tons based on the mechanization fund



*Ellet G. Horsman—for Respondent—by Mr. Zimmerman*

assessment times the present amount,  $27\frac{1}{2}$  cents or  $26\frac{1}{2}$  cents.

Q. Do I understand that general cargo, then, is also assessed at  $27\frac{1}{2}$  cents a measurement ton? A. No, it is as freighted or as manifested. There are formulas or instructions that we have on what commodity takes it on a weight, and what commodity takes it on a measurement basis.

Q. Well, just to clarify it, would you give me an example of the way in which the bill occurs where you have an automobile, and then you have some other type of general [432] cargo than automobiles which does not take the same mech fund assessment as an automobile? A. Let's take an example. We have a ton of Borax and we have a ton of cotton, and we have one automobile. The mechanization fund bill would show the Borax at one weight ton, the cotton at one weight ton, and the automobile, if it measured ten cubic tons, would show ten for a total of 12 times  $27\frac{1}{2}$  cents.

. . .

*By Mr. Zimmerman:*

Q. Mr. Horsman, you mentioned the names of four men to whom you talked at these PMA meetings. Would you mention [433] the names of the stevedore companies that were represented by those men? A. I believe, Mr. Zimmerman, that I gave that the other day, but to go back over it, Mr. Ebby, representing California Stevedore & Ballast Company in San Francisco, Mr. Fred Smith of Seattle Stevedoring Company in Seattle, and Mr. John Anthony, Associated Banning Company in Los Angeles, and Mr. Neil Whisnant, Brady-Hamilton Stevedore Company, Portland, Oregon.

. . .

*Ellet G. Horsman—for Respondent—Cross*

*Cross examination by Mr. Madden:*

[436] You stated that subsequent to this meeting you then billed Volkswagens and other foreign cars by putting the mechanization fund as a separate item. Did your method of billing have any bearing on the fact that you had had the meeting? A. No, this was the instruction on how this was to be billed. As I remember, that was the reason for the meeting.

Q. But did it have any bearing on this after the meeting, discussion? [437] A. At the time, it hadn't actually gone into effect yet, the actual billing. In other words, there was still a question of what the various commodities would bear, bulk, scrap, automobiles, and at the time it was decided that the rate would be so much a ton, and bulk was then given a reduced rate from the original thinking, and I believe it wasn't until February 1961 that the actual billings took place, and the method of billing was, of course, up to the stevedore.

And one of the reasons for the meeting—or it wasn't actually a meeting of the stevedores. It was why we were at a general meeting of the PMA—our concern was that if the mechanization fund is applied against automobiles on a measurement basis, our customers were going to object, but at the time there was no ship that hadn't billed yet, and it must have been another, so it was after this meeting that actually went into effect.

Q. So that all billing was subsequent to the meeting? A. Yes, sir.

Q. There wasn't a change in billing procedures as a result of the meeting? A. No, sir.

Q. You hadn't billed before? A. We hadn't billed it. It was some month later.

Q. Tell me, what was the conversation of the group [438] of these stevedores, either before or after the main

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meeting of the PMA at this time? What were you talking about? A. We knew beforehand that if the mechanization fund on automobiles was placed on a measurement basis, that our customer would object, and it would be our position to hear their reasons for the objection, and place these objections before our association.

Mr. Ransom: No further questions.

*By Mr. Madden:*

Q. Was the reason that you knew your customers would object the fact that you all knew that it would be necessary to pass this assessment on to the customers? A. I don't know.

Q. As a cost? A. I gathered in the conversation that no one could absorb this in their present commodity rate at the time.

Mr. Madden: That is all.

The Witness: I can't say this for sure. We could not, Marine Terminals Corporation.

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**Exhibit 1-A****[1] (MEMORANDUM OF UNDERSTANDING****Between****PACIFIC MARITIME ASSOCIATION  
(on behalf of its Members)****And****INTERNATIONAL LONGSHOREMEN'S AND  
WAREHOUSEMEN'S UNION****(on behalf of itself and all Longshore and Marine Clerks  
Locals in California, Oregon and Washington))**

The following statements cover those items agreed to by the parties in the 1959 negotiations as amendments to the 1958 ILWU-PMA contracts, which contracts are re-executed, except as modified hereby:

**WAGES****LONGSHORE**

The basic straight-time wage rate for men paid on a 6-hour day basis shall be increased by 11 cents per hour effective 8 a.m. Monday, June 15, 1959. This brings the basic straight time rate to \$2.74 per hour and the overtime rate to \$4.11 per hour.

For special categories of Longshoremen historically paid on an 8-hour straight time basis, the basic straight time rate shall be increased by 12½ cents.

**CLERKS**

The straight time rate for Clerks is increased by 14 cents per hour, bringing the rate to \$2.93 straight time and \$4.39½ overtime. (This is the increase applicable to Longshoremen on an 8-hour basis, plus 1½ cents.)

The Clerks will receive additional increases of 1½ cents effective as of the day shift on the Monday nearest June

*Exhibit 1-A*

15, 1960, and June 15, 1961; thus over the three year period of the contract, getting a total additional increase of  $4\frac{1}{2}$  cents. It is agreed that this amount wipes out the earnings differential between Clerks and Longshoremen.

Over and above these increases, Supercargoes and Chief Supervisors are to receive 4 cents per hour additional, effective as of the day shift June 15, 1959, and as of the day shift on the Monday nearest June 15, 1960, and June 15, 1961. It is agreed that this amount (12 cents) wipes out the earnings differential between these men and walking bosses.

**RETROACTIVITY**

It is agreed that the wage adjustments negotiated for 1959 shall be effective with the day shift on Monday, June 15, 1959, and retroactivity shall apply up to but not including August 10, 1959. If the Union has not approved this settlement on or before August 10, 1959, then the Employers shall continue to pay the rates of pay in effect prior to this settlement and shall continue payments of wages on that basis until notified in writing that the Union has accepted [2] the revised rates as negotiated. When such written notification is received the Employers will then place the new rates in effect on the day shift of the Monday following such notification, and the application of retroactivity will be applicable for the period starting with the day shift on Monday, June 15, 1959, up to but not including the day shift beginning on Monday, August 10, 1959.

**MECHANIZATION**

Mechanization and the utilization of laborsaving devices have been a subject of discussion between the parties since 1957. During the course of the 1959 negotiations the following items were agreed to on this subject.



*Exhibit 1-A*

To allow a certain amount of time (not more than one year) for the parties to further study and gain factual experience:

(1) of actual changes made by laborsaving machinery, changed methods of operation, or proposed changes in working rules and contract restrictions, resulting in reduced manpower or manhours with the same or greater productivity for an operation;

(2) of savings to the employer because of such changes;

(3) of a proper share of such savings to be funded as hereinafter provided; and

(4) of the manner of distributing such fund to the fully registered work force:

A) PMA proposes to create a coastwise fund for the fully registered work force, through contributions by the Employers to be accumulated during the first ensuing contract year, in the amount of one million five hundred thousand dollars. This amount, in addition to "buying time" for necessary study and experience, represents a recognition by the Employers that savings accrue as a result of mechanization and changed methods of operation, and a recognition by the Union that no additional payment is due for changes made or to be made prior to June 15, 1960. This payment shall constitute a part of the consideration for renewal of the contract, and shall be distributed to the fully registered work force in a manner to be determined. (Tax and legal problems to be resolved.)

B) It is the purpose and intent of the parties, during the course and as the result of this study period, to achieve and meet the following aims and objectives:

*Exhibit 1-A*

1. To guarantee the fully registered work force a share in the savings effected by labor saving machinery, changed methods of operation, or changes in working rules and contract restrictions resulting in reduced manpower or manhours with the same or greater productivity for an operation.

[3] 2. To maintain the 1958 fully registered work force, with allowance for normal attrition.

3. To create a coastwise fund for that work force through contributions by the Employers, such contributions to come from savings described in paragraph B) 1. hereof.

4. To provide that this fund will be separate from contractual wages, pensions, welfare and vacations.

5. To guarantee the PMA the right to make changes, and remove restrictions along with protection against reprisals for making such changes, and enforcement under the contract of such changes if and when made.

During the ensuing year, in addition to making of such study, the following agreements shall be in effect:

a. PMA will accumulate the one million five hundred thousand dollar fund as provided in A) hereof.

b. PMA shall be free to make such changes as are deemed necessary under Section 14 of the present Longshore contract, and Section 25 of the present Clerks' contract, restricted however by the observance of rules prohibiting individual speed-up and unsafe operations. The load agreement shall continue.

*Exhibit 1-A*

Except for changes in operations made hereafter by introducing laborsaving devices in addition to those already used and practiced by him in the past, the Employer shall not invoke the provisions of Section 14 of the Longshore Agreement or Section 25 of the Clerks' Master Agreement during the ensuing year. Nor shall the Employer seek a reduction of gang sizes or number of Clerks, elimination of multiple handling, or other existing contract or working rule restrictions with relation to operations now existing, except during future annual review negotiations or by mutual agreement.

c. The parties will continue negotiations on the matters outlined in this proposal for a period of not to exceed one year for the purpose of determining a basis for converting the above fund and Employer contributions thereto to a continuing basis which will meet the aims and objectives set forth herein. Such negotiations shall not exclude tonnage taxes, manhour assessments, or any other basis of conversion, nor exclude conversion of present contributions for welfare, pensions and vacations.

[4] d. The parties shall continue to operate in accordance with the terms of the contract and working rules, with mutual agreement against reprisals and for enforcement of the contracts, working rules and the provisions of this agreement.

**8-HOUR GUARANTEE****A. APPLICABILITY**

1. There shall be a guarantee of 8 hours of work to men when ordered and turned to work.

(a) This guarantee shall apply only to fully and limited registered Longshoremen and fully and limited registered Clerks.

*Exhibit 1-A*

(b) It shall go into effect on the day shift on January 1, 1960, for Longshoremen; for Clerks it shall be effective upon approval and ratification, prospectively August 10, 1959.

2. On the day shift, the 8-hour guarantee of work must be provided between the hours of 8 a. m. and 6 p. m.

On the night shift, the 8-hour guarantee of work must be provided within a spread of nine (9) hours from the normal starting time, excluding the meal hour. (This shall not change San Francisco Rule #2, Page 63, Brown Book.)

**B. METHOD OF PAYMENT—DEAD TIME**

1. In the event that dead time results, and 8 hours of work cannot be provided, dead time on the day shift from Monday through Friday shall be paid for at the straight-time rate of pay.

Note: When dead time is created at the beginning of a day shift by starting later than 9 a. m., overtime shall not apply until 6 hours have been worked or until 5 p. m., whichever occurs first.

2. All other dead time—nights, weekends and holidays—shall be paid for at the overtime rate of pay.

3. No penalty cargo rates shall be paid for during dead time.

**C. EXCEPTIONS TO 8-HOUR GUARANTEE**

1. (a) For men ordered, reporting for work and not turned to, the 4-hour minimum shall apply, except where inability to turn to is a result of insufficient men to start the operation. Present port rules defining number of men required to start operations shall apply.

*Exhibit 1-A*

(b) Where a Clerk is ordered to work against a ship and cannot turn to because of insufficient men as in Rule C. 1. (a) above and there is no place to shift said Clerk, the 4-hour minimum shall apply.

2. Longshore baggage men and linesmen, but not baggage Clerks are excluded from the 8-hour guarantee, and their minimums remain unchanged from the 1958 minimums.

[5] 3. When Longshoremen and/or Clerks are employed at Selby, California, (This applies to Selby only.) Employers may shift men to other operations to fill out the 8 hour guarantee, otherwise the guarantee is only 4 hours. If men are not shifted to other work but are ordered back after a mid-shift meal, a second 4-hour minimum shall apply.

5. The inclement weather exceptions to the 8-hour guarantee shall be as follows:

(a) When men are turned to, and work cannot commence or continue because of bad weather (such determination to be made by the Employer), a 4 hour minimum shall apply.

(b) When men are ordered to return to work after a mid-shift meal and work cannot resume because of inclement weather (such determination to be made by the Employer), a second 4 hour minimum shall apply.

(c) Dead time resulting from inclement weather shall be paid for as provided in Paragraph B.

5. Present rules governing stop work meetings shall continue. Any hours lost as a result of such meetings are deductible from contract minimums. Similarly, any hours lost as a result of short shifts resulting from union unilateral



*Exhibit 1-A*

action or mutual agreement of the parties are also deductible.

6. In those ports where a 4 p. m. or 5 p. m. stop is provided by rule for specific days, the minimum guarantee on such days shall be from the starting time, which for payroll purposes can be no later than 9 a. m. to such 4 p. m. or 5 p. m. stop.

7. (a) When an operation of short duration requires extra Longshoremen from the skilled classifications and such men are ordered and turned to, they shall be entitled to a 4 hour minimum, and can be transferred to comparable work on the original dock or ship to fill out this minimum.

(b) When such men are shifted to comparable work on other docks or ships or are ordered back after a mid-shift meal the 8 hour guarantee shall apply.

8. When gear men are called in on an emergency, local rules rather than the 8-hour guarantee shall prevail.

9. When men have been ordered and fail to report to work at all or on time, thus delaying the start of an operation, the time lost thereby until replacements have been provided or until the man or gang has turned to shall be deducted from the guarantee.

10. Men or gangs refusing to shift, quitting or discharged for cause, shall be paid only for the time worked.

[6] 11. A replacement gang ordered from the dispatch hall to replace a quitting gang shall not be eligible for the 8-hour guarantee, but shall be eligible for the 4 hour minimum. This only applies when a gang quits during the course of the 8 hours of work or quits by refusal to work

*Exhibit 1-A*

the extensions for shifting or sailing provided in the agreement.

12. Where men are turned to and work less than 8 hours by reason of quitting, discharge for cause, or injury, and a replacement is ordered by the Employer, the 8-hour guarantee is not applicable and the men shall be paid as follows:

(a) The man being replaced to be paid for time worked;

(b) The replacement is to be paid for time worked, or the 4 hour minimum, whichever is greater.

**D. MANEUVERABILITY AND FLEXIBILITY OF THE WORK FORCE**

1. In order to prevent as much as possible Employers being required to pay for "dead time" or time not worked by the application of the 8-hour guarantee, the Employers shall have maximum maneuverability and flexibility of the work force, Longshore and Clerks. They may shift men and gangs—from ship to ship, from direct employer to direct employer, from steamship company to steamship company or any combination thereof.

(a) Employers shall have the right to shift men and gangs at their option in order to fill out the work guarantee. Men and gangs must shift as ordered.

(b) Employers may move skilled longshore classifications, such as winch drivers, hatch tenders, gang bosses, crane men, lift drivers, jitney drivers, etc., to comparable work: 1) on board ship, 2) on the dock, 3) on barges or between any of the locations listed in 1), 2), and 3), and the men shall be obligated to shift. No skilled classifications will be

*Exhibit 1-A*

required to shift and do physical labor (hand handling) such as dock work, car work, hold work, etc.

(c) Skilled classifications of clerks, such as super-cargoes, supervisors, etc., may be shifted by Employers to comparable work or to any Clerks' work to fill out the shift guarantee without reduction in their skilled pay rate.

(d) Men in ship gangs can, at the option of the Employers, be shifted to any other work including all dock and car work in order to fill out a shift.

(e) Dock men or dock gangs shall not be shifted to work aboard ships to get the 8-hour guarantee but may be shifted to any work on docks, cars or barges.

[7] (f) In those ports where working rules do not now provide swing men (ship or dock men), the Employer has the option to order up to two swing men for each discharge gear working. These swing men may be used for any dock work and/or for hold work in any hatch. This will hold true whether or not dock men or gangs are ordered and whether or not, under local rules, dock men or gangs must be released as a unit.

In those ports where working rules do not now provide swing men (ship or dock men), the Employer has the option on loadouts to order additional hold men (not to exceed two for each gear working) for assignment as needed. These men may be used for any dock work and/or for hold work in any hatch.

(g) Men in specialty, shoveling, and freezer gangs can, at the option of the Employers, be shifted to any other work including all dock and car work in

*Exhibit 1-A.*

order to fill out a shift. When so shifted, the penalty cargo rate shall not prevail.

(h) The Employers shall have the right to order back after an initial or any subsequent shift only such gangs as are needed to finish the work remaining. (This is intended to minimize the necessity of shifting men or gangs to other jobs or ships to fill out the 8-hour guarantee.) Such gang or gangs ordered back must be the gang or gangs which the Employers believe in good faith have the most work to do at their respective gear, and they are to finish the work, if any, at the gear of the gangs released at the end of the previous shift if ordered to do so. Under such circumstances the gear priority of the gangs released is suspended. When gangs are not ordered back under this rule they cannot be replaced by new gangs at that gear until the second subsequent comparable shift. This rule is not to be used as a subterfuge for firing gangs.

(i) The shifting of registered and limited registered men to fulfill the guarantee shall be carried out without bumping other men to create available work.

2. Accompanying the obligation placed upon the Employers to furnish 8 hours of work each shift is the obligation on the part of the men to shift from one job to another for the purpose of working a full shift when such move is ordered by the Employers.

3. The Union recognizes that late initial starts will occur and agrees that men will work ships with late initial starts. (See Paragraph B. 1. Note.)

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4. The employers have the right to relieve hatches during meal hours.

[8] 5. Existing gear priority rules will be suspended or changed when necessary to facilitate shifting of men and gangs for the purpose of guaranteeing the full 8-hour work shift. "Center line" and "imaginary bulkhead" and similar practices which result in arbitrary division of work among gangs shall be eliminated.

6. Existing contract leeway provisions for finishing ship to shift (2 hours) or sail (3 hours) shall remain unchanged.

7. Men and gangs shall go to meals as directed by the Employer and shall return to complete a shift after a meal when a shift is extended for shifting or sailing.

**E. RULES AND EXAMPLES APPLICABLE TO SHIFTING  
MEN AND/OR GANGS.**

1. Initial late start orders may be placed at the dispatch hall to work a ship and to shift to a second ship for a late start on the second ship when ordered to do so.

*Note:* The purpose of men being notified by orders at the hall at the time of dispatch is to know in advance that the ship they are being dispatched to is the second ship, with the first ship being worked as a fill-in job for the purpose of making 8 hours.

2. Men or gangs may be ordered to shift from a job or a ship that they have completed to a late start on another job or ship. Such men or gangs will be released at the end of the shift on the second ship and may be required to work no longer than the extended hours herein provided for, if such extended hours are necessary to complete the work on the second ship for shifting or sailing.



*Exhibit 1-A*

Such shifting of men or gangs may be accomplished without clearance through the dispatch hall.

3. Men or gangs may be ordered to shift from a job or a ship on which they have not completed their original assignment to permit a late start on another job or ship, or in order to fill out the 8-hour work guarantee, or in order to finish the second ship for shifting or sailing. These men or gangs will be ordered back to their original job during that shift or for the start of the next day's shift, and such shifting of men or gangs may be accomplished without clearance through the dispatch hall.

If the work on the second ship is of such amount as to require working the extended hours in order to permit the ship to shift or sail, the men or gangs will work up to but not beyond the end of such extended time.

4. Men or gangs may be ordered to shift from a job or a ship which they have not completed but where they have run out of available work because of delay in arrival of cargo, breakdown of equipment, etc., to another job or ship in order to complete the 8-hour guarantee, and they will be ordered to return to their original job to finish it. Such shifting of [9] men or gangs may be accomplished without clearance through the dispatch hall. (This rule also applies when a ship fails to arrive as scheduled.)

5. Gangs will have gear priority on only one ship during each shift and will be released to the dispatch hall at the end of any shift in which they have completed their work on the ship on which they had priority. (This does not negate D. 1. (h)).

6. There shall be no second or additional guarantee attached to turning to on new assignment after shifting.

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**F. ONE HOUR LEEWAY TO FINISH CAR WORK OR TRUCK WORK.**

When dock work on cars or trucks is started but is incomplete at the regular quitting time, an extension or leeway of one hour to finish the job will be permitted, providing men are not sent to a meal.

**G. GUARANTEE FOR GANGS THAT TRAVEL.**

When gangs are travelled and, as a result, their starting time is such as to make it impossible to fill out the guarantee between 8 a.m. and 6 p.m., the guarantee shall be pay or work until 6 p.m., except for the meal hour. For example, if men arrive on the job at 9:30 a.m. following travel, then their guarantee will be 7½ hours.

**H. MEAL HOUR.**

1. The meal hour shall be between 11 a.m. and 1 p.m., that is, the noon meal hour can be at 11, 11:15, 11:30, 11:45 or 12 noon.

2. The night shift meal hour shall be at either 10 p.m. or 11 p.m. in those ports whose normal starting time is 6 p.m. and at either 11 p.m. or 12 midnight in those ports whose normal starting time is 7 p.m.

3. Men and gangs shall go to meals as directed by the Employer.

**I. SMALL PORTS.**

The full provisions of the 8-hour guarantee shall prevail in all ports. However, in small ports—6 gangs or less—it is understood that if these ports wish to make adjustments

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in leeway for late starts because no alternative work is available to fill out the 8-hour guarantee, this can be done by mutual agreement at the local level providing there is advance approval by the Joint Coast Committee.

**[10] NEW EQUIPMENT**

It is recognized that the Employer has the right to select competent men for all operations. When new types of equipment are introduced in connection with cargo handling covered by the contractual definitions of work, such new equipment shall be operated by employees under ILWU contracts, with the understanding that competent men shall be made available by the ILWU, with adequate experience or training. This proposal shall not change the status quo as to assignment of other than ILWU workers on existing equipment.

**VACATIONS**

The present contract vacation provisions were amended as follows:

**1. JURY DUTY VACATION ELIGIBILITY**

Any registered man covered by the ILWU contracts who shall be summoned for jury duty shall be entitled to have his actual hours of attendance at court as juror be counted as qualifying hours for vacation eligibility. (Note: Actual hours in this instance are all hours at court, waiting to serve on a jury, or actually serving on a jury.)

2. Any registered Clerk or Longshoreman who has 25 qualifying years in the industry and is paid for 800 hours but less than 1344 hours in the preceding year, thus earning one week's vacation, shall receive an additional week of va-

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2. Any registered Clerk or Longshoreman who has 25 qualifying years in the industry and is paid for 800 hours but less than 1344 hours in the preceding year, thus earning one week's vacation, shall receive an additional week of va-



*Exhibit 1-A*

cation. (Note: This leaves unaffected the 25-year man who works 1344 hours the previous year.)

**WELFARE**

The Trustees of the Welfare Fund having determined that sound policy requires that a balance of \$800,000 should be maintained (to meet two months' premiums covering existing benefits), it is agreed that at any time during the term of this Agreement that the Fund balance falls below \$800,000 as the result of maintaining present benefits, an additional employer contribution of 1¢ per manhour shall be made for such period as may be required to replenish or maintain such balance. The Trustees shall determine the time during which such additional 1¢ shall be paid, based upon the status of the Fund with relation to the \$800,000 balance formula.

**PENALTY CARGOES**

The following commodities were added to the list of commodities carrying a 10 cent penalty:

1. Tapioca flour when sacks are leaking or sifting.
2. Calcine coke.
3. Freshly painted lumber when paint is wet.

[11] It was agreed also that during the coming contract year the parties will study the entire penalty list with the intent of revising it to eliminate commodities where packaging or mode of handling has changed so as to remove the obnoxious features. Any disagreements will be resolved at the June, 1960 contract review.

**PROTECTIVE CLOTHING AND DEVICES**

It was agreed that where protective clothing or devices are currently being furnished, even though not specifically

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required by the safety code, the Employers will continue to furnish them. At the local level the parties will re-examine this question in order to arrive at an orderly procedure for the issuance, safeguarding, and return of the items furnished by the Employers.

**RELIEF PERIODS**

It is recognized that employees are entitled to reasonable and necessary time off for relief. Relief periods shall be arranged so as to fall around the mid-point of the work period involved, having due regard for the continuity and nature of the work. The ILWU agrees there shall be specific contract language to prevent the abuse of such relief periods or their being used as a subterfuge to operate as a 4-on — 4-gone practice, or variations thereof, and to insure that men will observe specified times for starting, resuming and finishing work.

**PORT WORKING AND DISPATCHING RULES AND  
LOCAL AGREEMENTS**

It was agreed, with regard to port working and dispatching rules that:

- 1) Any rules which conflict with or prevent the operation of the new contract provisions shall be changed.
- 2) Any other changes in port working and dispatching rules can be made only by mutual agreement.

With regard to local agreements with PMA or with PMA members (exclusive of Walking Boss Contracts) it was agreed:

- a) That any provisions of the Coast Agreement which are applicable to the local agreements shall be incorporated in the local agreements.

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b) That any provisions of the local agreements which are in conflict with the Coast Agreement shall be changed.

c) Any other changes in local agreements can be made only by mutual agreement.

[12] LEGAL QUALIFICATIONS

The Pacific Maritime Association has made the agreements on mechanization and the 8-hour guarantee contingent upon satisfactory resolution of certain tax and legal problems. This has been agreed to.

In connection with mechanization, the PMA needs to be assured that employer contributions to the one million five hundred thousand dollar (\$1,500,000) Fund will be currently deductible for income tax purposes.

The PMA needs to be assured that the straight-time rate of pay is the regular rate under the Fair Labor Standards Act and there will be no obligation to pay overtime on overtime.

The Union has agreed to support the PMA in obtaining such assurances. Failure to obtain resolution of these problems would require renegotiation of these issues.

GOOD FAITH GUARANTEE

As an explicit condition of agreement, the parties exchanged commitments that the Agreement as amended will be observed in good faith. In answer to the Employers' demand for such a guarantee, the Union Negotiating Committee and Caucus unanimously voted to commit every local and every member to observe such commitment without resort to gimmicks or subterfuge. The Employers gave a similar guarantee of good faith observance on their part.

In order to implement this good faith guarantee, it was agreed that whenever the local grievance machinery

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becomes stalled or fails to work the matter can be referred at once by either party to the Coast Labor Relations Committee for disposition. This understanding applies with special force to issues arising with regard to mechanization under Section 14 of the Coast Agreement and Section 25 of the Clerks' Agreement, and to the application of the 8-hour guarantee. Any problems arising over changes in local working or dispatching rules because of the new contract provisions can be thus referred to the Coast level for prompt disposition.

**LENGTH OF CONTRACT**

The contract shall be for a period of three years, terminating June 15, 1962, with an opening on wages, mechanization and hours in June, 1960; and an opening the second year, June, 1961, on wages, hours, mechanization and paid holidays. If settlement is not reached by negotiations, either party may submit unresolved issues to the Coast Arbitrator.

[13] (The Union has agreed without commitment on either side that there shall be discussions regarding the problems of domestic carriers.)

Dated: August 10, 1959

PACIFIC MARITIME ASSOCIATION  
on behalf of its members

/s/ J. PAUL ST. SURE

INTERNATIONAL LONGSHOREMEN'S  
AND WAREHOUSEMEN'S UNION  
on behalf of itself and all  
Longshore and Marine Clerks  
Locals in California, Oregon  
and Washington

/s/ L. B. THOMAS

## Exhibit 1-B

[1] (MEMORANDUM OF AGREEMENT  
ON  
MECHANIZATION AND MODERNIZATION  
OCTOBER 18, 1960)

A. PROVISIONS FOR EFFICIENT OPERATIONS

1. (1) The Longshore and Clerk's Agreements and local agreements (exclusive of Walking Boss Agreements) shall be revised and amended in the manner set forth herein so as to eliminate restrictions in the contract and working rules, as well as in unwritten but existing Union unilateral restrictions and arbitration awards which interfere with the Employers' rights dealing with sling loads, first place of rest, multiple handling, gang sizes, and manning scales, so as to allow the Employers to:

- a. Operate efficiently
- b. Change methods of work
- c. Utilize labor-saving devices
- d. Direct the work through Employer representatives while explicitly observing the provisions and conditions of the Agreements protecting the safety and welfare of the employees and avoiding speed up. "Speed up" shall be understood to refer to an onerous workload on the individual worker. It shall not be construed to refer to increased production resulting from more efficient utilization and organization of the work force, introduction of labor-saving devices, or removal of work restrictions.

2. (2) It is the intent of this document that the contract, working and dispatching rules shall not be construed



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so as to require the hiring of unnecessary men. The question of whether or not men are necessary shall be based on a determination of the number of men required to perform an operation in accordance with the provisions of paragraph A(1). Such determination shall take into account the contractual provisions for relief, the fact that during many operations all men will not be working at all times due to the cycle of the operation, but this shall not be construed to sanction such practices as four-on four-off or variations thereof.

3. The Employer may seek through the provisions of the contract machinery to change only those contract provisions, working and dispatching rules which are in [2] conflict with the provisions and intent of this document. Where changes are agreed upon at the Coast Committee level they shall go into effect. Where changes remain in dispute they shall be resolved by the contract machinery.

**SLING LOAD LIMITS**

4. *The sling load agreement shall be amended to provide as follows:*

5. 1. The sling load agreement shall continue to apply to all loads built by longshoremen where conditions, number of men on the dock and in the ship, and the method of operation are the same as when the sling load agreement was negotiated.

6. 2. In the case of all other commodities or operations where operations have changed or where new commodities or operations have developed, loads shall be as directed by the Employer, within safe and practical limits and without speed up of the individual. Any dispute arising with re-

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gard to such operations shall be settled through the grievance machinery with the work continuing as ordered.

7. 3. An increase in the number of men man-handling cargo or the use of machinery to move or stow cargo on the dock or on the ship shall be considered a change in operations which permits the handling of loads larger than previous standards.

8. 4. Loads built by other than longshoremen or loads built by longshoremen under 2 or 3 hereof shall be skimmed or not skimmed as ordered by the Employer.

9. 5. Nothing herein limits the Union's right to raise the issue of onerousness of work through the grievance machinery.

**PLACE OF REST AND MULTIPLE HANDLING**

10. (1) There will be no multiple handling.

11. (2) Longshore work shall include the following dock work between the first and last place of rest (unless waived by the Union, in writing):

- (a) High piling or breaking down high piles
- (b) Sorting
- (c) Movement of cargo on the dock or in a terminal, or to another dock, terminal or warehouse
- (d) The removing of all cargo from longshore boards

[3] (e) The building of all loads on the dock.

12. The above work shall be performed when ordered by the Employer. Longshore work on the dock, as outlined in

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this section, is left to the option of the Employer. The fact that such Employer option is provided for herein, does not require the Employer to perform such work, but Employers are hereby prohibited by this language from allowing others than Longshoremen to perform the work.

13. (3) If jurisdictional difficulties arise in the application of the above, whatever jurisdictional agreements are reached shall not result in multiple handling.

14. Section 1 of the Longshore Agreement, "Definition of Longshore Work", Paragraph (a) shall be amended by inserting the following language as a new paragraph following the words "companies parties to this Agreement.":

15. "The words 'first place of rest' in the preceding paragraph shall not be interpreted so as to require multiple handling of cargo on either discharge or loading operations or movement of cargo on the dock or in a terminal, or to another dock, terminal or warehouse, i.e., no cargo delivered to a terminal for loading on a ship, car or barge and no cargo arriving at a terminal by ship or barge and subsequently leaving a terminal shall require multiple handling by longshoremen except as required by the Employer.

16. "Cargo received on pallet, lift, or cargo boards, or as unitized or packaged loads, shall be considered as having fulfilled the 'first place of rest' requirement when unloaded from the carrier at a place designated by the Employer, and shall not be re-handled before moving to ship's tackle unless so directed by the Employer. Cargo received for shipment but neither palletized nor received as unitized or packaged loads and to be palletized before delivery to ship's tackle shall be palletized by longshoremen only (unless waived by the Union, in writing). Cargo discharged from a vessel on pallet, lift, or cargo boards or as packaged or

*Exhibit 1-B*

unitized loads shall be considered as having fulfilled the 'last place of rest' requirement, when it is dock stored just as it left the hatch. It may be removed by the consignee or his agent, without additional handling, unless de-palletizing is ordered or sorting is required by the Employer prior to such removal. After cargo has been placed on the dock after discharge from the vessel, any movement of the cargo to a railway car, any sorting on the dock, and any building of loads on pallet boards on the dock shall be done by longshoremen. This will permit the teamsters to load their trucks piece by piece from cargo boards after longshoremen have broken down piles and set loads to the tailgate, floor or loading platform.

[4] 17. "Longshoremen will load or discharge trucks only when directed to do so.

18. "High piling or breaking down high piles is longshore work. Outbound loads will be set down one lift high on the docks and then may be high piled only by longshoremen, if so required by the Employer. Inbound loads will be set down by longshoremen in lift loads suitable for placement on trucks."

GANG SIZES AND MANNING

19. Section 9 of the Pacific Coast Longshore Agreement, shall be amended to read as follows:

20. The minimum basic ship general break bulk cargo gangs shall consist of men as follows:

- A gang boss (in ports where such are used)
- A winch driver (two on single winches)
- A hatch tender
- Two (2) sling or front men
- Four (4) holdmen (including siderunners)

*Exhibit 1-B*

21. Except as hereinafter provided: (1) On loading operations the basic gang can be the minimum number of men for all operations when the loads are being landed in the vessel at their place of rest or being stowed thereafter by mechanical equipment.

22. (2) On discharge operations this basic gang can be the minimum number of men when the loads are being moved to the point of removal from the vessel by mechanical equipment or are ready for slinging without additional handwork except the placement of slings or similar devices.

23. When cargo is to be hand-handled, then two swing men shall be added to the basic gang for all discharge operations, and four swing men shall be added for all loading operations. *Exception:* When space and safety are the factors that dictate that only one load can be handled at a time, prior to the handling of the second load, then the basic gang can perform such handling providing it is to last for one hour or more.

24. When the cargo handling operation to be performed requires only a minimum basic gang, that gang may be used to rig, uncover and cover hatches without additional men, so as to avoid deadtime under the eight hour guarantee.

25. The flexibility to apply to such swing men as are called for herein (and to the second winch driver) shall be the same flexibility set forth in the August 10, 1959 Memorandum in connection with the 8-hour guarantee. Swing men, skilled or unskilled, and the second winch driver, shall not be added to the basic gang complement in order to have ship's time guaranteed. They shall have the [5] 8-hour guarantee and the right to callbacks



*Exhibit 1-B*

without favoritism. They may be released at the end of any shift when they are not needed to start the next shift.

26. The minimums set forth above can be supplemented in any numbers as ordered by the Employer, while needed, without precedent.

27. Other longshore work in connection with loading and discharging is to be performed as ordered.

28. The Employer shall be permitted to bring machinery and machine drivers into the hold and to swing out an equivalent number of hold men, provided four basic hold men are retained at all times.

29. If loads above contractual limits are to be moved manually, and additional men or machines are required to guarantee against onerous individual workload, and to maintain safety standards, they will be provided.

30. Manning for existing operations shall continue with the Employer having the right to ask for review of such manning through the contract machinery in the following situations:

31. 1. Where existing manning for general cargo operations, including packaged lumber and mixed operations of break bulk and unitized cargo, (other than hand-handled operations) exceed the minimum basic ship general break bulk cargo gang; provided, however, that such review shall not seek to reduce the manning below said minimum basic ship gang, and shall be based on a determination of necessary men as hereinabove defined.

32. 2. In the case of other existing operations, such review shall be based on a determination of necessary men

*Exhibit 1-B*

as hereinabove defined, and shall not be limited by the minimum basic ship general break bulk cargo gang structure.

33. When new methods of operation are introduced the Employer shall discuss the proposed manning with the Union. If agreement cannot be reached (at the Coast level) the Employers shall have the right to put their manning in effect, subject to final resolution through the contract machinery.

[6] 34. In existing operations, where changed methods have already been introduced which eliminate hand-handling of cargo on a piece-by-piece basis; or which eliminate hand-handling of units (as in cases of straight runs of unitized cargo, mechanically landed, lifted and stowed and vice versa); or which eliminate the need for hold men by removal of devices, (as in the case of chutes in scrap operation), the procedure of this paragraph shall apply.

35. Dock gang units shall continue while providing for flexibility in the use of dock gangs.

36. The same safeguards with respect to speed up, safety and welfare shall apply in the case of gang size and manning as in the case of sling loads.

37. If, during a shift, a change is made from a discharge to a loading operation, and the change requires additional men under the provisions of this section, if the Employer is unable to swing in men from ship or dock from his own employees, the hold men will work without additional men for a maximum of fifteen loads but not more than one hour.

*Exhibit 1-B*

**B. MODERNIZATION AND IMPROVEMENT FUND  
PROVISIONS**

38. In return for a revised Longshore and Clerks' Agreement incorporating the provisions set forth in Paragraphs A and C "Provisions for Efficient Operations", PMA will establish a jointly trustee'd Fund as hereinafter provided. The administration and application of these revisions of the contract shall be subject to the grievance procedure at the Coast level.

39. 1. The Fund shall include the \$1.5 million accumulated prior to June 15, 1960, and will be supplemented by PMA contributions of \$5,000,000 per year for a period of five and one-half years. If at any time the maximum payments per year do not provide sufficient money to meet fully the guarantees and benefits, the guarantees and benefits shall be reduced proportionately.

40. 2. The Fund shall be segregated into two parts and used for the following purposes:

41. (a) For all present fully registered longshoremen and Clerks, minus attrition; a guarantee of payment for a specified number of hours of straight-time pay per week at the then current contract rate, computed on an annual basis. Such guarantee shall become operative only when hours fall below the agreed level due to reduced work opportunity resulting from changes as provided in Paragraph A hereof, but shall not apply to a drop in tonnage due to a decline in economic activity. Details of eligibility and administration to be negotiated.

[7].42. (b) For all present fully registered longshoremen and Clerks, minus attrition; the types of benefits pro-

*Exhibit 1-B*

vided in Union Draft of 10/4/60 Paragraph (2) (b), Paragraphs (1) to (7) inclusive. The amounts of such benefits to be determined by the Union. (See Exhibit "A", attached.)

43. In regard to the benefit entitled "Mandatory Pensioning", PMA-ILWU shall have joint control over application of early mandatory retirement. If the parties disagree, differences will be subject to arbitration.

### C. GENERAL PROVISIONS

44. 1. The parties agree that they will abide by all terms and provisions of the collective bargaining agreements.

45. 2. The parties agree that should disputes arise under these agreements all men and gangs shall continue to work as directed by the Employer in accordance with the specific provisions of the Agreements and that such disputes shall be settled through the grievance machinery of the applicable contract. Only in cases of bona fide health and safety issues may a standby be justified. The Union pledges in good faith that health and safety will not be used as a gimmick.

46. 3. The Union agrees that the provisions of Section 16(f) relating to "Penalties for Work Stoppages, Pilferage, Drunkenness and Other Offenses" shall be observed, and that in the event of disagreement as to the imposition of penalties under the "independent procedure" at the Joint Port Labor Relations Committee level, the issue shall be processed immediately through the grievance procedure, and to the Area Arbitrator, if necessary. The hearing and investigation of grievances relating to penalties shall be given precedence, on an equal basis with discharges, over

*Exhibit 1-B*

all other business before the Joint Port or Joint Area Labor Relations Committees and before the Area Arbitrator.

47. The Union further agrees that the provisions of Section 7 (b) (3) relating to removal of Hiring Hall personnel for cause shall be observed, and that any charges brought under this sub-section shall be processed through the grievance procedure immediately and shall be given precedence, on an equal basis with penalties and discharges, over all other business before the Joint Port and Joint Area Labor Relations Committees and before the Area Arbitrator.

[8] 48. 4. The parties agree the basic purposes of the Fund shall be specifically incorporated in the Trust Agreement and further that either party may on 60 days notice request a joint review of the basic purposes of the Fund no more than twice during the term of the Trust Agreement, and that the initial review may not be requested prior to a date 18 months subsequent to the effective date of the Trust Agreement. If the parties cannot reach agreement at these reviews, unresolved items or disputes may be referred to the Coast Arbitrator for decision at the request of either party.

49. 5. In connection with the Modernization and Improvement Fund PMA needs to be assured that the Employer contributions to the Fund will be currently deductible for income tax purposes.

50. The Union agrees to support PMA in obtaining such assurances from the proper government agencies. Failure to obtain resolution of these problems would require renegotiation of these issues.

51. 6. Any contract provisions, working rules, dispatching rules, unilateral rules or arbitrator awards in conflict



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with the provisions of this document shall be nullified, or changed to the extent necessary, in order that they shall not prevent the operation of this Memorandum of Agreement. Any disputes concerning the interpretation or application of this Memorandum of Agreement shall be determined under Coast Labor Relations Committee procedures. The parties, by agreement, may refer proposed changes which are of local significance only, to the Local area for negotiation. In the interest of uniformity, any such matter negotiated at the Area level must be approved at the Coast level before being put in operation. Any matter referred to the Area level and not resolved within 30 days thereafter shall automatically return to the Coast level, and if not resolved there shall be presented to the Coast Arbitrator for decision.

52. 7. Wherever applicable the foregoing paragraphs shall apply equally to longshoremen and clerks. The provisions of 16(f) and 7(b)(3) of the Longshore Agreement shall be incorporated in the Pacific Coast Master Clerks' Agreement.

53. 8. In the event that the Union or any Local fails or refuses to follow a Coast LRC or Arbitrator's ruling interpreting or applying the provisions of this document, or in the event of a work stoppage in any port or ports in violation of the provisions of this document, payments into the Fund shall be abated during the period of such failure, refusal or stoppage in the manner and amount hereinafter provided, and the total Employer obligation shall be reduced by such amount.

[9] 54. The method of determining the amount of abatement shall be as follows:

The total Employer obligation on an annual basis is at the rate of \$13,650 per day. This shall be the

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maximum amount of abatement per day. Within this limit, the parties shall agree as to the amount to be abated on a daily basis in each instance of failure, refusal or stoppage, whether on a Coastwide, Area, or Port basis, and failing such agreement, the Coast Arbitrator shall make such determination.

D. DURATION

55. This Agreement shall become effective upon ratification by both parties and shall run to July 1, 1966.

E. AMENDMENTS TO BASIC LONGSHORE AND CLERKS AGREEMENTS

56. 1. The present Basic Coast Longshore and Master Clerks Agreements shall be extended to July 1, 1966 subject to annual reviews on June 15. Either party may ask review of any item in the Agreements with the exceptions of Mechanization and Modernization and Pensions.

57. 2. The Coast Labor Relations Committee shall decide upon an equitable formula for dealing with the question of offenses which have arisen under Section 16(f) during the term of the present contract in order to prevent the unreasonable cumulation of penalties into the term of the Agreement as extended.

58. 3. The issue of gear priority shall be referred to the Coast Labor Relations Committee in order to develop a coastwise rule. The Committee shall take into account the positions advanced by both parties in the current negotiations. Pending agreement on such coastwise rule, existing local rules shall continue to apply.

*Exhibit 1-B*

59. 4. With regard to local agreements with PMA or with PMA members (exclusive of Walking Boss Contracts) it is agreed:

a) That any provisions of the Coast Agreement which are applicable to the local agreements shall be incorporated in the local agreements.

b) That any provisions of the local agreements which are in conflict with the Coast Agreement shall be changed.

c) Any other changes in local agreements can be made only by mutual agreement.

60. 5. Pensions are reviewable under the terms of the Pension Agreement on July 1, 1961.

[1] EXHIBIT "A"

*Note:* This language from the Union proposal of October 4, 1960 sets forth the types of benefits contemplated under paragraph B 2(b) of the October 18, 1960 Memorandum of Agreement. Specific wording will be incorporated in the Trust Agreement.

2. (b) *Early Retirement, with Vesting, and Death Benefit:* For all present fully registered longshoremen and clerks, minus attrition; the types of benefits provided below. The amounts of such benefits to be determined by the Union.

(1) A death benefit, after more than 5 and less than 15 years of pension credit service of \$220 monthly for 12 monthly payments, to be paid to his beneficiary.

(2) After 15 years of pension credit service, accumulation of a vested right to a sum equal to  $36 \times 220$ , and at age

*Exhibit 1-B*

65, with 25 years or more of service, the right shall be fully vested. If such a man dies or becomes disabled prior to reaching pension retirement, he shall receive, or his beneficiary, a proportionate amount, depending on years of service beyond 15, or the amount provided in (1) or (6) hereof, whichever is greater but in case of death no more than \$5,000.

(3) Normal retirement to continue at age 65 with 25 years of service, and with payment of lump sum equivalent in whole or on a monthly basis as preferred by the pensioner.

(4) *Voluntary Retirement* can be chosen at age 62 or thereafter with 25 years of service at the rate of \$220 per month, and such early retirement will consume all or a part of a man's vested share of this Fund prior to his 65th birthday. Any residue of the individual share would be payable to the individual in a manner determined by him.

(5) *Mandatory pensioning* can be made obligatory at age 64, 63 or 62 with 24, 23, or 22 years of service and with the same payments as in (4) above plus normal pension payments, if such mandatory retirement is mutually deemed necessary for the purpose of reducing the work force. Such mandatory requirement would of course follow mandatory retirement of men with 25 years of service and 65 years of age but not yet 68. The parties shall have joint control over application of early mandatory retirement. If the parties disagree, differences will be subject to arbitration.

(6) *For men who die after 15 years of pension credit service and prior to retirement*, beneficiaries shall receive \$5,000 in monthly payments of \$220.

(7) *For men who die while on normal or early pension* prior to the exhaustion of their vested interest herein, beneficiaries shall receive the residue in monthly payments of \$220 per month.

*Exhibit 1-B*

[1] MEMORANDUM OF UNDERSTANDING

BETWEEN

PACIFIC MARITIME ASSOCIATION

AND

INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION

Pursuant to the wage review of June 15, 1960, it is hereby agreed:

WAGES

LONGSHORE

The basic straight-time wage rate for men paid on a 6-hour day basis shall be increased by 8 cents per hour effective 8 a.m., Monday, June 13, 1960. This brings the basic straight-time rate to \$2.82 per hour and the overtime rate to \$4.23 per hour.

For special categories of Longshoremen historically paid on an 8-hour straight-time basis, the basic straight-time rate shall be increased by 9 cents.

CLERKS

The straight-time rate for Clerks is increased by 10½ cents per hour, bringing the rate to \$3.03½ straight-time and \$4.55 overtime. (This is the increase applicable to Longshoremen on an 8-hour basis, plus 1½ cents.)

WELFARE

The Employers' contribution to the ILWU-PMA Welfare Fund shall be increased by 2 cents per manhour, bringing the contribution to 14 cents per manhour straight and overtime, effective 8:00 a.m., July 4, 1960, and shall be



(Exh. 1-B, 1 of Annex.)

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further increased by one cent, to 15 cents per manhour,  
effective 8:00 a.m., January 2, 1961.

Dated: 10/18 1960.

For

INTERNATIONAL LONGSHOREMEN'S &  
WAREHOUSEMEN'S UNION

/s/ H. R. B.

For:

PACIFIC MARITIME ASSOCIATION

/s/ J. Paul St. Sure

oeiu 29

10/18/60

**Exhibit 1-C**

**(ILWU-PMA SUPPLEMENTAL AGREEMENT ON  
MECHANIZATION AND MODERNIZATION, DATED  
NOVEMBER 15, 1961)**

**[1] ILWU-PMA SUPPLEMENTAL AGREEMENT**

**ON**

**MECHANIZATION AND MODERNIZATION**

**THIS AGREEMENT entered into as of the 1st day of January, 1961, by and between International Longshoremen's and Warehousemen's Union, representing employees, hereinafter defined, and on behalf of itself and all of its longshore and marine clerks' locals in California, Oregon and Washington, and Pacific Maritime Association, representing its member companies, hereinafter defined,**

**WITNESSETH :**

**WHEREAS, the parties hereto, after collective-bargaining negotiations, agreed on the terms and conditions to be incorporated in and amending the Pacific Coast Longshore Agreement and the Master Agreement for Clerks and Related Classifications, ratified January 10, 1961, and in and amending miscellaneous related agreements (i.e., Agreement for Carloaders in San Francisco Bay, between the Association, as hereinafter defined, and International Longshoremen's and Warehousemen's Union Local 10; Agreement for Carloaders in Los Angeles Harbor Area between the Association and International Longshoremen's and Warehousemen's Union Local 13; Portland and Vancouver Dock Agreement between the Association [2] and International Longshoremen's and Warehousemen's Union Locals 8 and 4; Portland Gear and Lockermen's Agreement between the Association and International Longshoremen's and Warehousemen's Union Local 8; Dock Workers' Agree-**

*Exhibit 1-C*

ment for Port of Seattle between Waterfront Employers of Washington, on whose behalf the Association is acting, and International Longshoremen's and Warehousemen's Union Local 19; and Sweepers Agreement for the Los Angeles-Long Beach Harbor Area between the Association and International Longshoremen's and Warehousemen's Union Local 13, all of which miscellaneous related agreements were also ratified January 10, 1961), including particularly those set forth in a written Memorandum of Agreement on Mechanization and Modernization between the parties hereto, dated October 18, 1960 (hereinafter referred to as "Memorandum Agreement"); and

WHEREAS, said Memorandum Agreement, and particularly Sections A and C thereof, contains various provisions for increasing efficiency in operations through permitting utilization of labor-saving devices and eliminating restrictive work practices in the Pacific Coast shipping industry, the substance of which provisions have been made an integral part of said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, and said miscellaneous [3] related agreements; and

WHEREAS, said Memorandum Agreement and particularly Section B thereof, contains other provisions for creating, accumulating and administering a so-called Mechanization Fund in the sum of Twenty-nine Million Dollars (\$29,000,000) for the payment of certain benefits in consideration of the performance of said provisions for increasing efficiency in operations; and

WHEREAS, the parties hereto have now agreed upon the manner in which such Mechanization Fund is to be accumulated, administered and distributed and are desirous of formalizing such agreement,

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NOW THEREFORE, in consideration of the premises, the parties hereto agree as follows:

**I. DEFINITIONS**

The following terms where used in this Agreement, unless specifically provided to the contrary, shall have the following respective meanings and definitions:

1. *Union*: The International Longshoremen's and Warehousemen's Union, representing persons whose terms and conditions of employment as longshoremen or marine clerks, respectively, in California, Oregon and Washington, are governed by said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or any of said miscellaneous related [4] agreements, and including all of its longshore and marine clerks' locals in said states.

2. *Association*: Pacific Maritime Association.

3. *Member Companies*: Companies who are presently, or hereafter become, members of the Association and are, or become, subject to said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or any of said miscellaneous related agreements, or several of said collective-bargaining agreements, respecting the employment of "Employees" as that term is hereinafter defined in Section 4 of this Article 1.

4. *Employees*: All longshoremen or marine clerks and persons within related classifications who were on January 1, 1961, or during the term of this Agreement become, fully registered within the meaning and under the provisions of said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, respectively, and whose

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terms and conditions of employment as longshoremen or marine clerks, respectively, in California, Oregon and Washington are governed thereby.

**[5] 5. Employers:**

(a) Companies who are Member Companies of the Association as of the date of this Agreement or thereafter become Member Companies of the Association and who employ directly Employees under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, any of said miscellaneous-related agreements, or several of any of said collective-bargaining agreements.

(b) Companies who, although not Member Companies of the Association, employ directly any Employees, through any of the hiring halls jointly maintained by the Association and the Union, under arrangements mutually acceptable to the Association and the Union.

6. *Principals:* Member or non-Member Companies of the Association who do not employ directly Employees but who obtain stevedoring, terminal, or similar or related services under contracts with Employers in which services of Employees are employed.

7. *Companies:* Includes corporations, unincorporated associations, partnerships, joint ventures, estates, trusts and individuals.

**8. Contributions:**

(a) Assessments required of Employers [6] who are Member Companies under arrangements adopted by the Association, pursuant to its by-laws, in order to effectuate this Agreement;



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(b) Appropriate charges required of Employers who are not Member Companies under arrangements established by and mutually acceptable to the Association and the Union.

9. *Mechanization Fund*: The fund to be created pursuant to Article II of this Agreement while in the possession of the Association.

10. *Vestees*: Employees who have established their eligibility pursuant to Schedule B hereof, or amendments thereto, for the vesting benefit available under the "Plan," as that term is hereinafter defined in Section 12 of this Article I.

11. *Agreement*: This ILWU-PMA Supplemental Agreement on Mechanization and Modernization.

12. *Plan*: This Agreement, the Trust Indentures and Trusts established thereby for implementation of the Agreement, the ILWU-PMA Welfare Fund to the extent the same is used in connection with this Agreement, and arrangements for assessment and charges for Contributions.

[7] II. CREATION OF MECHANIZATION FUND

The Member Companies of the Association shall establish or cause to be established a Mechanization Fund in the following amount and manner:

1. *Amount and Rate of Accumulation*. Commencing January 1, 1961, and continuing for a period of five and one-half years ending June 30, 1966, a Mechanization Fund shall be established, subject to the provisions of Section

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3 of Article V hereof, at the rate of Six Million Five Hundred Thousand Dollars (\$6,500,000) during the first year, Five Million Dollars (\$5,000,000) during each of the next four years, and Two Million Five Hundred Thousand Dollars (\$2,500,000) during the next succeeding six months, for a total of but not exceeding Twenty-nine Million Dollars (\$29,000,000).

2. *Contributions.* (a) Employers who are Member Companies shall make Contributions to the Mechanization Fund in the amounts and at the rates set forth in Section 1 of this Article II, and Principals who are Member Companies shall be responsible therefor to the extent the Association determines pursuant to its by-laws and in its sole discretion. As to Member Companies, the Association shall have and hereby reserves exclusive power to adopt and change the method, [8] manner and amount of collecting Contributions for the Mechanization Fund from Employers and to fix the responsibility therefor of Principals, provided that it may not, without consent of the Union, modify the annual rate at which the Mechanization Fund is to be accumulated as set forth in Section 1 of this Article II.

(b) Employers who are not Member Companies of the Association shall contribute to the Mechanization Fund at comparable rates and in a like fashion as other Employers under arrangements to which the Association and Union consent in writing; the amount of the Mechanization Fund to be accumulated by Member Companies under this Agreement shall be reduced by the amount to be contributed thereto under such arrangements by Employers who are not Member Companies, unless the Association and Union provide otherwise by written agreement acknowledged as being an integral part hereof.

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(c) Nothing herein contained shall preclude any Employer from securing a guaranty from any Principal obtaining stevedoring, terminal, or similar or related services from such Employer under contract between such Employer and Principal, respecting the responsibility [9] of such Principal for any Contribution such Employer is obligated to pay hereunder on account of such services so furnished such Principal by such Employer.

3. *Interests in Mechanization Fund.*

(a) Neither the Union nor Employees shall have any right, title or interest, or any claim whatsoever, legal or equitable, in or to any portion of the Mechanization Fund.

[9] (b) No Trustee of any Trust employed for the effectuation of the Plan, or any beneficiary thereof, shall have any right, title or interest, or any claim whatsoever, legal or equitable, in or to any portion of the Mechanization Fund, except as is specifically set forth in and granted under this Agreement or any such respective Trust.

(c) The Association's status, including its right, title and interest, respecting the Mechanization Fund or any portion thereof, shall be only as a collecting agent for the various Employers making Contributions thereto for transferal to the respective Trusts, employed for effectuation of the Plan, of all or any portion of the Mechanization Fund coming into its possession in the form of Contributions.

[10] (d) No Employer, or its successor in interest, shall have any right, title or interest, or any claim whatsoever, legal or equitable, with respect to Contributions to the Mechanization Fund within the possession of the Association which were made by another Employer, and the interest of an Employer, or its successor in interest, in the Mechanization Fund shall be limited to that pro

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rata portion thereof attributable to Contributions made by it, computed on a "first-in, first-out" principle, and which have not already been transferred by the Association to the respective Trusts employed for the effectuation of the Plan.

4. *Abatement.* (a) In the event that the Union or any persons represented by it (i) fails or refuses to follow any decision or ruling of the Coast Labor Relations Committee or any Arbitrator provided for in said Pacific Coast Longshore Agreement, Master Agreement for Clerks and Related Classifications, any of said miscellaneous related agreements, and this Agreement, interpreting, applying, or enforcing any provision of this Agreement (excluding the provisions of paragraph (b) of Section 1 of Article VI hereof) or of the provisions of [11] any of said collective-bargaining agreements which are specifically referred to in paragraph (c) of Section 1 of Article VI hereof, or (ii) engages in or permits a work stoppage in any port or ports covered by any of said respective collective-bargaining agreements in violation of any provisions of this Agreement (excluding the provisions of paragraph (b) of Section 1 of Article VI hereof) or the provisions of any of said collective-bargaining agreements which are specifically referred to in paragraph (c) of Section 1 of Article VI hereof, all payments of Contributions which Employers are otherwise obligated to make into the Mechanization Fund or to the Association, as collecting agent for such purpose, shall be abated during the period of any such failure, refusal or work stoppage in the manner and amount hereinafter provided in paragraph (b) of this Section 4 and the total obligation respecting such payments of Employers and Principals, as set forth in this Article II of this Agreement, shall be reduced by such amount, effective



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concurrently with the period of any such failure, refusal or work stoppage.

[12] (b) It is mutually agreed for the purposes of this Section 4 of this Article II that on an annual basis said obligation accumulates at the rate of Thirteen Thousand Six Hundred Fifty Dollars (\$13,650) per day, and it is mutually agreed that this sum shall be the maximum amount of the abatement allowable per day under paragraph (a) of this Section 4. In the event of any such failure, refusal or work stoppage, the Association and the Union shall promptly negotiate in an attempt to agree as to the amount, computed on a per diem basis, respecting each instance of any such failure, refusal or work stoppage, irrespective of whether any such event occurs on a Coastwide, Area or Port basis. If the Association and the Union after a reasonable period of negotiations fail to reach agreement on any such matter, the issue or issues in dispute may, at the request of either party hereto, be referred to arbitration for final decision under and in accordance with the provisions of Section 4 of Article VI hereof.

### III. FUNCTION OF THE ASSOCIATION

1. *Status.* The Association shall be, and hereby is, appointed the collecting agent acting for and on behalf of Employers in accumulating [13] their respective Contributions to the Mechanization Fund, and the Association shall act as a conduit for transferring the whole, or portions, of the Mechanization Fund received by it to the respective Trusts employed for effectuation of the Plan as provided in this Agreement.

[13] 2. *Limitation.* The Association shall not commingle Contributions by Employers to the Mechanization



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Fund with the Association's general funds or any other funds or trusts within its possession, and the Association shall not act as a repository of Contributions by Employers to the Mechanization Fund beyond such time as may be reasonably necessary to perform accounting and banking transactions required for effectuation of the Plan with due regard for the respective tax years of Employers who have made such Contributions.

3. *Authority.* The Association is hereby authorized to act as such collecting agent for Employers and, as such, to take all reasonable action necessary to compel Employers and Principals who are Member Companies to comply with their respective obligations or responsibilities under the Plan.

[14] 4. *Default.* (a) In the event of an Employer's default in making its Contributions required under the Plan, the Association shall report such default to the Union and certify the extent of such default to the Trustees of the Trusts to be employed pursuant to Article IV hereof.

(b) In the case of such a default by an Employer who is not a Member Company of the Association, such Employer shall be denied further use of any of the dispatching halls jointly maintained by the Association and the Union, and any other facilities maintained under said Pacific Coast Longshore Agreement, Master Agreement for Clerks and Related Classifications, or any of said miscellaneous related agreements, until such default is corrected; the Union and the Association shall take all reasonable and available steps to compel either an Employer or a Principal who is not a Member Company to comply with its obligations under the Plan; and neither Member Companies, the Association, nor the Union shall be liable or responsible to make good losses incurred by reason of any such default.

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(c) In the case of any such default [15] under the Plan by an Employer who is a Member Company and a failure by the Association after a reasonable period to compel such Employer to correct such default, the Trustees of the respective Trusts to be employed pursuant to Article IV hereof shall be empowered and authorized in their name and capacity to commence and pursue such legal remedies as may be appropriate and available to enforce whatever rights under the Plan they may have in the premises against such Employer. In a like manner said Trustees shall be empowered and authorized to proceed in the case of any default under the Plan by an Employer or Principal who is not a Member Company and a failure by the Union and Association after a reasonable period to compel such Employer or Principal to correct the default.

(d) Principals shall be responsible for assuring themselves that any and all moneys paid by them under the Plan to Employers are in turn paid as Contributions by such Employers to the Association as collecting agent, and if any such Principal is a Member Company, any responsibility it may have under this Agreement in such connection shall not be satisfied until [16] such Contribution is received by the Association as collecting agent.

(e) The Association agrees to undertake to collect the obligations owed by any defaulting Employer who is a Member Company hereunder (including the institution of legal action which the Association is hereby empowered to undertake), and if the Association fails, the remaining Member Companies of the Association shall be required to make good any loss resulting from the default of such Employer.

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IV. ADMINISTRATION OF MECHANIZATION FUND

1. *Establishment of Trusts.* The benefits described in Article V and Schedules A, B and C hereof, shall be made available to Employees eligible therefor as beneficiaries of three separate, independent and irrevocable Trusts, as follows:

(a) *Death and Disability Benefits.* (1) Death and disability benefits described in Article V hereof and the attached Schedule A, and any amendment thereto, shall be made available to eligible Employees under the Declaration of Trust of the ILWU-PMA Welfare Plan, as amended, which Plan and Trust established thereunder have been, or shall [17] be, amended by the Union and Association to the extent necessary to implement this Agreement.

(2) The Association, as collecting agent for Employers, shall from time to time transfer from Contributions received by it for the Mechanization Fund to the Trustees of the ILWU-PMA Welfare Fund, as so amended, sufficient moneys for the purpose of providing for the death and disability benefits provided for by said Article V, Schedule A, and any amendment thereto.

(b) *Vesting Benefit.* (1) The Vesting Benefit described in Article V hereof and the attached Schedule B, and any amendment thereto, shall be made available to Employees eligible therefor under an irrevocable trust established by the Association and Union under the laws of the State of California to be known as the ILWU-PMA Vesting Benefit Trust, which Trust shall be administered by six (6) Trustees, three (3) of whom shall be designated by the Union and a like number by the Association, who [18] shall be empowered to discharge their responsibilities under the Plan.

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(2) The Trustees of said Trust shall maintain lists of Vestees and shall regularly and periodically report to the Association during each calendar year while the Plan is in effect the extent of the Trust's monthly obligations to the Vestees and designees.

(3) The Association as collecting agent for Employers, shall transfer from Contributions received by it for the Mechanization Fund to said Trustees only such moneys as are necessary to enable them to discharge obligations owed to Vestees and designees, to pay for necessary and reasonable administration expenses which have been incurred by said Trustees in administering the ILWU-PMA Vesting Benefit Trust and to pay taxes as hereinafter provided. The Association shall not, in any event, transfer from the Mechanization Fund any moneys to the Trustees of the ILWU-PMA Vesting Benefit Trust, which are not [19] required by said Trustees for immediate payment of such obligations, administration expenses or taxes which are currently due and owing by said Trustees.

(4) Upon receipt of such moneys from the Association, said Trustees shall immediately use the same for payment of such obligations, administration expenses or taxes which are currently due and owing by said Trustees.

(c) *Supplemental Wage Benefit.* (1) The Supplemental Wage Benefit, described in Article V hereof and the attached Schedule C and any amendment thereto, shall be made available to Employees eligible therefor under an irrevocable trust established by the Association and Union under the laws of the State of California to be known as the ILWU-PMA Supplemental Wage Benefit Trust, which Trust shall be administered by six (6) Trustees, three (3) of whom shall be designated by the Union and a like number by the Association, who shall be empowered to discharge their responsibilities under the Plan.



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[20] (2) The Association, as collecting agent for Employers, shall transfer promptly from Contributions received by it for the Mechanization Fund to the ILWU-PMA Supplemental Wage Benefit Trust, moneys to be held, administered and used for the payment of supplemental wage benefits to Employees eligible therefor, as set forth in Article V hereof and the attached Schedule C, and any amendments thereto and for payment of administration expenses and taxes as hereinafter provided.

2. *Interests in Trusts.* (a) The transfer of moneys from the Mechanization Fund by the Association to the Trustees of the ILWU-PMA Welfare Fund, ILWU-PMA Vesting Benefit Trust, or ILWU-PMA Supplemental Wage Benefit Trust, respectively, shall be final and irrevocable, and neither the Association, any Employer, any Principal nor the Union shall have any right, title or interest, or any claim whatsoever, legal or equitable, in any moneys so transferred.

(b) No Employee or beneficiary, or their designees, of any of said Trusts shall have any right, title or interest, or any claim whatsoever, [21] legal or equitable, in or to the funds so transferred from the Mechanization Fund to the ILWU-PMA Welfare Fund, ILWU-PMA Vesting Benefit Trust, or ILWU-PMA Supplemental Wage Benefit Trust, respectively, except as provided in paragraphs (c), (d) and (e) of Section 2 of this Article IV.

(c) Employees, or their designees, eligible under this Agreement for death or disability benefits provided by this Agreement shall be entitled, upon compliance with the procedures established by the Trustees of the ILWU-PMA Welfare Fund in connection with the payment of benefits generally available under said Fund, to obtain payment of death or disability benefits in the amount provided by this



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Agreement and to the extent that the Association has transferred, or arranged for transfer of, such moneys from the Mechanization Fund to such Trustees; each such Employee, or his designee, shall be limited to enforcing his rights under the Plan by proceeding against said Trustees and the ILWU-PMA Welfare Fund.

(d) The interests and rights of each Vestee, or his designee, in such moneys transferred from the Mechanization Fund in accordance with the request of the Association by the Trustees of [22] the ILWU-PMA Vesting Benefit Trust for payment of obligations owed thereunder to Vestees and designees shall be limited to such Vestee's or designee's pro rata share thereof, and each Vestee, or his designee, shall be limited to enforcing his rights under the Plan by proceeding against said Trustees and the ILWU-PMA Vesting Benefit Trust.

(e) Employees eligible under this Agreement for supplemental wage benefits provided by this agreement, upon compliance with the procedures to be established by the Trustees of the ILWU-PMA Supplemental Wage Benefit Trust in connection with the payment of said benefits, shall be entitled to obtain payment of said benefits, and each such Employee shall be limited to enforcing his rights under the Plan by proceeding against said Trustees and the ILWU-PMA Supplemental Wage Benefit Trust.

(f) Any Employee or designee of an Employee or Vestee, who is ineligible to receive a death, disability, vesting, or supplemental wage benefit shall have no rights or claims against any of the aforesaid Trusts, Trustees thereof, the Association, its Member Companies, the Union, or any of the officers, members, or agents of any of them.

(g) The interests of the Trustees of each of the aforementioned Trusts shall be limited [23] to the property under their respective administrations and shall not extend

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to that property which is subject to another Trust for payment of the benefits provided under such other Trust.

3. *Limitations on Liability.* Neither the Association, any Employer, any Principal, nor the Union shall be liable or responsible for any losses, occasioned by misdelivery to, or misuse by, or misfeasance of any Trustee of any of said respective Trusts, of moneys transferred to such Trustees by the Association, notwithstanding that the moneys available to any such Trust from the Mechanization Fund will be insufficient for payment of the benefits under the Plan.

4. *Arbitrator.* Each of the aforementioned Trusts shall contain provisions for the appointment of an impartial Arbitrator to resolve whatever deadlocks, if any, may occur between the Trustees from time to time, as required by the Labor Management Relations Act, as amended.

5. *Powers and Duties of Trustees.* (a) The Trustees of each of the aforementioned Trusts may demand payment by the Association from Contributions received by it for the Mechanization Fund of such moneys to which the Trusts under their respective administrations may be entitled under [24] this Agreement and may proceed at law or equity to enforce such demand if the Association fails to make any such payment within a reasonable period.

(b) The Trustees of each of said respective Trusts are hereby empowered to enforce the rights derived hereunder by the Trust under their respective administrations against any Employer or Principal to the extent that the Association certifies to such Trustees that an Employer or Principal is in default of its obligations or responsibilities under the Plan, and such Trustees may proceed at law or equity or under the bankruptcy laws to enforce such rights.

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(c) The Trustees of each of the aforementioned Trusts shall be authorized to employ the services of an Administrator to the extent such respective Trustees deem such services necessary.

(d) The Trustees of each of the aforementioned Trusts shall make, or cause to be made, all reports required of such Trustees and any Administrator employed by them, the Union, the Association, Principals, Employers or of any of their agents, officers and representatives under the Labor Management Relations Act, as amended, Labor Management Reporting and Disclosure Act of 1959, The Welfare and Pension Plans Disclosure [25] Act, and the laws of the State of California.

(e) The Trustees of each of the aforementioned Trusts shall make, or cause to be made, all reports of payroll and withholding taxes required by reason of disbursements from the Trusts under their respective administrations. The Trustees shall pay all such taxes directly; or, to the extent governing law requires that such reports and taxes be made or paid by an Employer, said Trustees shall provide such Employers with the necessary information for such reports and with moneys from their respective Trusts for payment of such taxes for which Employees are primarily liable, and the Association shall provide such Employers with moneys from the Mechanization Fund for payment of such taxes for which Employers are primarily liable.

(f) The Trustees of each of the aforementioned Trusts shall maintain or cause to be maintained, or provide Employers with information for making and maintaining, all records required under the Fair Labor Standards Act, as amended, and any other law of the United States or the State of California applicable to the Plan.

*Exhibit 1-C*

V. BENEFITS

1. *Utilization of Fund.* (a) Subject to the [26] provisions of paragraphs (b) and (c) of this Section 1 of Article V, the moneys transferred from the Mechanization Fund by the Association to said respective Trusts shall be used to provide the death and disability benefits described in Schedule A hereof; to provide the vesting benefits described in Schedule B hereof, and to provide the supplemental wage benefits described in Schedule C hereof to Employees, or their designees, who are respectively eligible therefor in accordance with the provisions set forth in each of the said respective schedules and who comply with the procedures adopted by the Trustees of each of said respective Trusts in connection with the administration of their Trusts, subject to any amendment to this Agreement or said schedules which are adopted by the parties hereto pursuant to this Agreement.

(b) The respective Trustees of the ILWU-PMA Welfare Fund, ILWU-PMA Vesting Benefit Trust, and ILWU-PMA Supplemental Wage Benefit Trust may also use the moneys transferred by the Association from the Mechanization Fund to their respective Trusts for the payment of administration expenses of their respective Trusts or of any taxes attributable to benefits paid under their respective Trusts.

(c) The Association, on account of the respective Employers, may use that portion of the [27] Mechanization Fund required for payment of such payroll taxes as the respective Employers may incur either by reason of transfer by the Association of their respective Contributions to the Mechanization Fund to any of the Trusts employed to effectuate the Plan or by payment of benefits by said Trusts.



*Exhibit 1-C*

2. *Allocation of Fund.* (a) Unless otherwise mutually agreed in writing by the Association and Union and subject to the provisions of paragraphs (b) and (c) of Section 1, and the provisions of Section 3, of this Article V, a total of at least Eleven Million Dollars (\$11,000,000) of the Mechanization Fund shall be allocated during the term of the Plan to the ILWU-PMA Supplemental Wage Benefit Trust to provide for the supplemental wage benefits described in said Schedule C or any amendment thereof; said sum shall be accumulated at the rate of Two Million Dollars (\$2,000,000) per year, unless the remaining portion of the Mechanization Fund available in any year for payment of vesting benefits then due and owing Vestees under the Plan is insufficient therefor, in which case said rate for accumulation of said sum may be lower for such year provided the parties hereto shall, as required by the provisions of paragraph (c) of this Section 2 of Article V hereof, make appropriate provision for the accumulation during [28] the term of the Agreement from Contributions to the Mechanization Fund of said total sum of Eleven Million Dollars (\$11,000,000). Subject to the provisions of paragraphs (b) and (c) of Section 1, of paragraphs (b) to (d), inclusive, of this Section 2, and of Section 3, of this Article V, the remainder of the Mechanization Fund shall be used to provide for the death and disability benefits or vesting benefits, or both, respectively described in said Schedules A and B, or any amendments thereof.

(b) No portion of the Mechanization Fund shall be transferred to the Trustees of the ILWU-PMA Vesting Benefit Trust except such portion which may be required by such Trustees for immediate payment of vesting benefits due and owing to Vestees and designees, current administration expenses or applicable withholding or payroll taxes, or both.



*Exhibit 1-C*

(c) Whenever it should appear to either party hereto that the total sum of Eleven Million Dollars (\$11,000,000) to be allocated for supplemental wage benefits will not be accumulated during the term of the Agreement from Contributions by Employers to the Mechanization Fund if death and disability benefits and vesting benefits are continued in the amounts then provided by said Schedules A and B, or any amendment thereto, then, to whatever [29] extent is necessary to assure said accumulation, the benefits provided for in Schedule A shall first be decreased, deferred or eliminated in their entirety and thereafter the benefits described in Schedule B shall be decreased, deferred or eliminated in their entirety, as the Union and Association in each such instance may agree; provided, however, a Vestee, or his designee, who has not received full payment of the amount of the vesting benefit available under the Agreement and Schedule B hereof as of the date such Vestee removed, or was compelled to remove, himself from the active work force shall be entitled to full payment thereof; the designee of an Employee who has not received full payment of the death benefit available under the Agreement and Schedule A hereof as of the date such Employee retires and qualifies therefor shall be entitled to full payment thereof; or an Employee, or his designee, who has not received full payment of the disability benefit available under said Schedule A as of the date such Employee is classified as totally disabled shall be entitled to full payment thereof; provided, further, said unpaid portion of vesting benefit, death benefit, or disability benefit, as the case may be, may not be decreased or eliminated unless there will be insufficient moneys accumulated by [30] Contributions from Employers to the Mechanization Fund, pursuant to the provisions of Section 2 hereof, in which case all said unpaid portions shall be appropriately decreased, and eliminated, if necessary, to equalize the total benefits pay-

**Exhibit 1-C**

able to such Vestees, designees, or Employees, respectively, but such Vestee, designee or Employee shall never be required to repay any benefit or portion thereof theretofore paid in accordance with the Plan.

(d) Member Companies shall not, in any such event, be required to increase the amount of Contributions to, or accelerate the rate of accumulation of, the Mechanization Fund.

3. *Reallocation and Extension.* (a) If it appears to the Association from the regular and periodic reports required by it of the Trustees of the ILWU-PMA Welfare Fund and the ILWU-PMA Vesting Benefit Trust as to the immediate and projected needs of their respective Trusts for sufficient moneys to provide benefits then available under such respective Trusts in accordance with the Plan, that the portion of the Mechanization Fund allocated under Section 2 of this Article V during any calendar year to provide for death and disability benefits or vesting benefits, or both, will exceed such needs of either or both of said Trusts, then the Association [31] in its sole, absolute and unreviewable discretion, may during such calendar year either (1) decrease the annual rate at which the Mechanization Fund is to be accumulated pursuant to Article II hereof notwithstanding the provisions of paragraph (a) of Section 2 thereof, or (2) transfer to the ILWU-PMA Supplemental Wage Benefit Trust such excess portion of the Mechanization Fund accumulated during such calendar year, unless the Association has theretofore transferred from the Mechanization Fund to said Trust pursuant to the terms of this Agreement a total of Eleven Million Dollars (\$11,000,000), in which case the Association, only with the concurrence of the Union and subject to the provisions of paragraph (b) of this Section 3 of Article V, may transfer from the Mechanization Fund said excess portion to the

*Exhibit 1-C*

ILWU-PMA Welfare Fund for use by the Trustees to provide any of the benefits available under the ILWU-PMA Welfare Plan or to the ILWU-PMA Supplemental Wage Benefit Trust.

(b) Notwithstanding any other provision of this Agreement, when it appears to the Association, that vesting benefits will be payable, subsequent to June 30, 1966, to Employees, or their designees, becoming Vestees on or before said date, then the Association may decrease the annual rate [32] at which the Mechanization Fund is to be accumulated pursuant to Article II hereof by such amount and for such year or years as the Association in its sole, absolute, and unreviewable discretion determines is necessary to allow future accumulations, as hereinbelow provided, for payment of such vesting benefits to such Vestees, or their designees, and the Association shall, subsequent to June 30, 1966, as moneys are required by the ILWU-PMA Vesting Benefit Trust for payment of such vesting benefits, accumulate the same by Contributions of Employers to the Mechanization Fund for transfer to said Trust, pursuant to the terms of this Agreement.

(c) Neither the provisions of paragraph (a) nor (b) of this Section 3 of Article V shall be construed as requiring the Member Companies to accumulate under this Agreement more than a total of Twenty-nine Million Dollars (\$29,000,000) in the Mechanization Fund or as relieving the Member Companies from accumulating in the Mechanization Fund less than said total sum and, if said total sum has not been accumulated and transferred to the respective Trusts to be employed for effectuation of the Plan by June 30, 1966, or when payment of the last vesting benefit to a Vestee, or his designee, has been made or provided for hereunder, whichever [33] date is later, the balance of said total sum shall be accumulated in the

*Exhibit 1-C*

Mechanization Fund and used as the Union and Association may then mutually agree.

(d) Whenever conditions require the Association to exercise the powers granted to it by this Section 3 of Article V hereof, the Association shall at all times inform the Union as to the provisions which the Association intends to make or has made to provide for the collection in the future of such portion of the annual Contributions to the Mechanization Fund which has been deferred by reason of exercise of the powers granted to the Association by this Section 3.

4. *Restriction on Use.* If the portions of the Mechanization Fund transferred to the respective Trustees of the ILWU-PMA Welfare Fund and of the ILWU-PMA Supplemental Wage Benefit Trust have not been expended during the term of this Agreement for the benefits provided for under said respective Trusts, the balance of either or both of said respective Trusts shall be used in such manner as the Association and Union mutually agree in writing, but no part of either said balances shall inure to the benefit of the Union, Association, Employers or Principals, and said balances shall be used only to provide comparable benefits to Employees, their [34] families or dependents, in accordance with the basic intent and purpose of the Plan, subject to a prior determination by the Internal Revenue Service that tax consequences attendant with such use are consistent with or are not substantially different than those set forth in the rulings affecting the Plan which were theretofore obtained.

VI. GENERAL PROVISIONS

1. *Integration of Agreements.* (a) The provisions of Section B and applicable provisions of Paragraphs 1, 4, 5,



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6, 7 and 8 of Section C of said Memorandum Agreement are hereby acknowledged as being incorporated in this Agreement and all other provisions of said Memorandum Agreement are hereby acknowledged to have been incorporated in said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, said miscellaneous related agreements, or several of any of said collective-bargaining agreements. Accordingly, said Memorandum Agreement has been superseded in the manner indicated and shall no longer have any force and effect.

(b) The Association and the Union agree that they will abide by all terms and provisions of said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, [55] and said miscellaneous related agreements.

(c) The Association and the Union each, on behalf of itself and the respective parties represented by it, agree that the provisions of said Memorandum Agreement identified in paragraph (a) of this Section 1 of Article VI as, not being incorporated in this Agreement but as having been incorporated in said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, said miscellaneous related agreements, or several of any of said collective-bargaining agreements, are an integral part of this Agreement, the violation of which by the Union and said parties represented by it shall constitute a violation of this Agreement entitling the Association to invoke the Abatement provision as set forth in Section 4 of Article II hereof.

2. *Incorporation.* Schedules A, B and C hereof, and any subsequent amendments thereof, are incorporated in this Agreement as integral parts hereof; are to be construed and applied consistently with the other provisions



*Exhibit 1-C*

hereof; and terms used therein shall have the same meaning as similar terms used herein.

3. *Amendment and Review.* Except as expressly provided in this Agreement, the Union and Association by their mutual agreement in writing may at any time [36] amend, modify or delete any provisions of this Agreement or of the Trusts to be employed to effectuate the Plan. Further, either the Union or Association may, each, on not more than two occasions during the term of this Agreement, but not before July 1, 1962, request a review of the basic purposes of the Plan and propose modifications thereto, and, if said parties are unable to agree as to such modifications after a reasonable period of negotiations, either party may request the issue or issues in dispute to be referred for final decision to the Coast Arbitrator, or other Arbitrator appointed in accordance with the provisions of Section 4 of this Article VI; provided that, the provisions of Section 1 of Article II hereof, relating to the total amount of the Mechanization Fund and the annual rate of accumulation thereof, of Section 4 of Article II hereof, relating to abatement of Contributions, and of Section 2 of Article V hereof, relating to the allocation of a minimum of Eleven Million Dollars (\$11,000,000) of the Mechanization Fund to the ILWU-PMA Supplemental Wage Benefit Trust, shall not be subject to review, modification or arbitration except by mutual agreement of the parties hereto.

Nothing contained in this Section 3 of Article VI shall authorize or permit a modification of the [37] provisions of Section 2 of Article IV hereof. The Plan may not be modified so as to require repayment by any Employee or designee of any benefit paid to an Employee or designee by Trustees pursuant to the terms and conditions of the Plan in effect as of the date of such payment.

*Exhibit 1-C*

4. *Arbitration.* Unless the parties hereto mutually agree on a different method for resolution of the same, all questions, disputes and other issues arising under the Agreement shall be resolved in accordance with the provisions of this Section 4 of Article VI, which provides the exclusive remedy for determination of such questions, disputes, and other issues.

Such questions, disputes or other issues shall be determined in accordance with the grievance procedures contained in said Pacific Coast Longshore Agreement or Master Agreement for Clerks and Related Classifications, whichever may be applicable, commencing at the level of the Coast Labor Relations Committee and terminating with arbitration before the Coast Arbitrator as therein provided. If the parties to said collective-bargaining agreements have failed to agree upon the Coast Arbitrator thereunder so that said office is vacant, or, if the Coast Arbitrator shall at any time be unable or refuse or [38] fail to act, or shall resign, then the parties hereto shall promptly agree upon another Arbitrator to resolve such question, dispute, or issue; if the parties hereto fail to agree upon another Arbitrator, he shall be appointed at the request of either party by Mr. E. D. Conklin; but, if another Arbitrator is not appointed by agreement of the parties or Mr. E. D. Conklin within a reasonable time, either of the parties hereto may apply to the United States District Court for the Northern District of California, Southern Division, for appointment of such other Arbitrator.

Said Coast Labor Relations Committee, Coast Arbitrator, or other Arbitrator, shall have primary and exclusive jurisdiction over all such disputes, questions, or issues and shall decide the same under and in accordance with the terms and conditions of the Plan, including those of this Agreement and said Trusts and compatibly and con-

*Exhibit 1-C*

sistently with the tax rulings and tax consequences set forth in Section 6 of this Article VI. The decision of the Coast Arbitrator, or other Arbitrator, shall be final and binding as to all questions, disputes and issues within his jurisdiction.

Notwithstanding any other provision of this Agreement, said Coast Labor Relations Committee, the Coast Arbitrator, or other Arbitrator, shall [39] not have jurisdiction over (1) questions, disputes, or issues arising under a Trust for which a procedure is provided by such Trust for resolution of the same; (2) any question, dispute or issue involving the exercise of sole, absolute and unreviewable discretion or of exclusive powers reserved to a party hereto or the Trustees of the said Trusts; and (3) questions, disputes or issues involving an increase of the total amount of the Mechanization Fund, or Contributions thereto, or an acceleration of the annual rate of accumulation thereof.

Nothing contained in this Section 4 of Article VI shall preclude the Trustees of the said Trusts from enforcing their respective rights under the Plan by proceedings in a court of law, equity, or bankruptcy, and, in particular, from instituting legal remedies against an Employer certified by the Association as being in default of its obligations under the Plan.

5. *Modifications of Bargaining Unit.* In the event any group or groups of Employees whose terms and conditions of employment are presently governed by said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or any of said miscellaneous related agreements, withdraw from the respective bargaining unit [40] or units covered thereunder and said respective collective-bargaining agreements no longer govern terms and conditions of their employment, the con-

*Exhibit 1-C*

sequences to the Plan of any such occurrence shall be reviewed by the parties hereto and appropriate amendments to the Plan, providing for the exclusion of such Employees from further benefits under the Plan and for an appropriate and commensurate pro rata reduction in future Contributions to the Mechanization Fund by Employers, shall be subjects for negotiation between the parties hereto.

6. *Tax Rulings.* The parties hereto have entered into this Agreement and established the various Trusts provided for hereunder in reliance on the letter rulings dated September 15, 1961, of the Internal Revenue Service, and on their applicability to all Member Companies, to the effect that the Employers may take a tax deduction from gross income for their respective Contributions paid to the Association for the Mechanization Fund effective with the transfer by the Association from the Mechanization Fund of the same to the respective Trusts to be employed for effecuation of the Plan, and to the effect that Principals may take a tax deduction from gross income for payments made by them to Employers on account of such Contributions in the year such payments are made or the responsibility to make such payments [41] is incurred. If either of said tax consequences is defeated or nullified by construction, amendment, revision, or revocation of said rulings or by any other event whatsoever, the obligations under Article II hereof of the Association and its Member Companies to continue to accumulate the Mechanization Fund and of Employers to pay further Contributions to the Mechanization Fund shall be immediately suspended and the Association may make appropriate refunds to the respective Employers of their Contributions then held by the Association in the Mechanization Fund. Such obligations shall not be revived until and unless during the term of this Agreement the Member Companies



*Exhibit 1-C*

shall have obtained a further effective ruling of the Internal Revenue Service reaffirming said tax consequences or until and unless an equivalent effective assurance of said tax consequences is obtained, either or both in a form satisfactory to the Association in its sole, absolute and unreviewable discretion. The Union agrees to assist the Association and Member Companies in obtaining such further ruling or equivalent assurance.

Further, the parties hereto recognize that rulings by the Internal Revenue Service respecting the reporting and payment of withholding and payroll taxes will be required, and, pending receipt of such rulings the Association in administering the [42] Mechanization Fund and the Trustees in administering their respective Trusts provided for herein shall establish appropriate reserves, consistent with the provisions of this Agreement, for such taxes for which either the Employers or Employees may be primarily liable, and all such respective taxes shall be paid, directly or indirectly, from the Mechanization Fund or the respective Trusts, as the case may be, as provided in Article IV hereof.

7. *War or National Emergency.* In the event of declaration of war by the United States or hostilities involving the Armed Forces of the United States or other national emergency and a resultant requisitioning by the United States of title or use of a substantial number of vessels owned or operated by Member Companies, the obligations of the Association and its Member Companies under Article II hereof shall be automatically and immediately reviewed as a subject of negotiations between the parties hereto.

8. *Equal Responsibilities of Employers.* Employers who are not Member Companies and who desire to par-



*Exhibit 1-C*

ticipate in this Plan shall do so only by entering into arrangements hereunder acceptable to the Association and Union.

9. *Legality.* It is hereby expressly recognized by the Union that the Association and its Member Companies in entering into this Agreement are relying [43] on rulings which have been obtained or are in the process of being obtained to the effect that for purposes of the Fair Labor Standards Act, as amended, no part of any Contributions shall be included in the regular rate of wages of any Employee, and if said rulings are not obtained, or, if obtained, are defeated or nullified by construction, amendment, revision or revocation of said rulings or by any other event whatsoever, or, in the further event any portion of the Plan is held unlawful under any law by decision of any court, the obligations under Article II hereof of the Association and its Member Companies to continue to accumulate the Mechanization Fund and of Employers to pay further Contributions to the Mechanization Fund shall be immediately suspended and the Association may make appropriate refunds to the respective Employers of their Contributions then held by the Association in the Mechanization Fund. Such obligations shall not be revived until and unless during the term of this Agreement the Member Companies shall have obtained a further effective ruling or further effective assurances reaffirming said rulings under the Fair Labor Standards Act, as amended, or a further court decision by an appellate court reversing the decision as to the unlawfulness of the Plan, such further ruling or assurances to be in a form satisfactory [44] to the parties hereto. The Union agrees to assist the Association in obtaining all rulings, assurances or court decision.

*Exhibit 1-C*

10. *Governing Law.* This Agreement and the Plan shall be governed by and construed under the laws of the State of California, and it is hereby acknowledged that the parties hereto have jointly undertaken to draft and prepare the form of the same. The titles and subtitles used in this Agreement are not a part of this Agreement, are included solely for convenient reference to the respective articles and sections hereof and have no bearing upon the interpretation of any terms and provisions hereof.

11. *Termination of Agreement.* Except as specifically provided in Section 3 of Article V hereof, the Association and Member Companies shall in no event be required by this Agreement or the Plan to agree to continuance of the whole or any part of the Plan for an additional term of years, or to continue making provision for payment of vesting benefits following the termination of this Agreement to any Employee, or designee, who does not become a Vestee before July 1, 1966, or for payment beyond said date of any other benefit provided by the Plan. The Agreement shall run concurrently with said Pacific Coast Longshore Agreement and Master Agreement for Clerks and Related Classifications, [45] ceasing therewith, until July 1, 1966, or to such later date as is required for the sole purpose of effectuating the provisions of Section 3 of Article V hereof.

Executed this 15th day of November, 1961.

FOR THE ASSOCIATION:

/s/ J. PAUL ST. SURE.

FOR THE UNION:

/s/ HARRY BRIDGES.

**Exhibit 1-D**

**[1] (SCHEDULE A  
DEATH AND DISABILITY BENEFITS)**

**1. DISABILITY BENEFITS:**

(a) An Employee shall be eligible to receive monthly disability benefits commencing on or after July 1, 1961, upon meeting each of the following requirements:

(1) He is, and was, for the nine calendar years immediately preceding the event qualifying him for a disability benefit, fully registered under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, and makes himself regularly available for work, unless he is disabled through illness or injury or is on a recognized leave of absence.

(2) He has at least 15 qualifying years of service during the 18 calendar years preceding the event qualifying him for a disability benefit.

(3) He has become permanently and totally disabled as a result of accident or sickness which forces him to leave gainful employment and registration in the industry and which occurs before his 65th birthday.

(4) He was credited with a qualifying year of service either for the payroll year prior to the payroll year in which his disablement occurred or for the payroll year in which his disablement occurred.

(b) An Employee shall be deemed to be permanently and totally [2] disabled only if, on medical evidence that

*Exhibit 1-D*

is satisfactory to the Trustees of the ILWU-PMA Welfare Fund as amended, he is found permanently and totally unable as a result of accident or illness to engage further in normal employment under whichever of said collective-bargaining agreements, or miscellaneous agreements related thereto, has governed the terms and conditions of his prior employment and, provided further, that he does not earn more than One Hundred Dollars (\$100) a month in any other employment or gainful pursuit whatsoever. The Trustees shall decide in their sole, absolute and unreviewable discretion whether permanent and total disability under the foregoing standards has occurred so as to entitle an Employee to disability benefits hereunder.

(c) An Employee applying for a disability benefit shall be required at any reasonable time to submit to an examination by a licensed medical doctor or medical doctors selected by the Trustees and may be required to submit to similar re-examination periodically as the Trustees may direct, provided that the Trustees shall pay the cost of such examinations that are not furnished without charge to the Employee.

(d) The amount of the monthly benefit to a disabled Employee shall be determined by the Trustees of the ILWU-PMA Welfare Trust and shall be paid until he has received a total amount, increasing on an annual straight-line basis according to qualifying years of service, from a minimum of Two Thousand Six Hundred Forty Dollars (\$2,640) with 15 years of qualifying service as of the date of disablement to a maximum of Seven Thousand Nine Hundred Twenty Dollars (\$7,920) at 25 years of service; except that if death to the disabled Employee should occur prior to his having received the total amount due him, his designee shall be paid the monthly benefits which would have been due the disabled Employee had he continued to live. The total



*Exhibit 1-D*

amounts of the benefit are subject [3] to the power reserved to the Union and Association by paragraph (c), Section 2, Article V of the Agreement to decrease, defer or eliminate payment of the disability benefit.

(e) The requirements for qualifying years of service over 15 years shall be follows:

- 16 out of the past 19 calendar years
- 17 out of the past 20 calendar years
- 18 out of the past 21 calendar years
- 19 out of the past 22 calendar years
- 20 out of the past 23 calendar years
- 21 out of the past 24 calendar years
- 22 out of the past 25 calendar years
- 23 out of the past 26 calendar years
- 24 out of the past 27 calendar years
- 25 out of the past 35 calendar years

(f) In no case shall such disability benefits be paid to Employees who have retired and become Vestees under Schedule B of the Agreement.

**2. DEATH BENEFITS.**

(a) A designee appointed by an Employee shall be eligible to receive a death benefit when such Employee meets each of the following requirements:

(1) He is *fully* registered under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, and makes himself regularly available for work, unless he is disabled by illness or injury or is on a recognized leave of absence.

(2) He has at least 5 qualifying years of service during the 8 calendar years preceding death.



*Exhibit 1-D*

(3) He was credited with a qualifying year of service either for the payroll year prior to the year in which his death occurred, the payroll year in which death occurred, or the payroll year in which he contracted the illness or injury [4] proximately causing his death, if such payroll year ends subsequent to January 1, 1961.

(4) He dies on or after July 1, 1961, but before retirement, becoming a Vestee under the Plan, or a recipient of a disability benefit under this Schedule A.

(b) A designee appointed by an Employee shall be eligible to receive a death benefit when such Employee meets each of the following requirements:

(1) He has at least 15 qualifying years of service and retires on or after July 1, 1961, under the ILWU-PMA Pension Plan in accordance with the provisions thereof which are in effect on or before January 1, 1962.

(2) He dies on or after July 1, 1961, but before July 1, 1966 and before becoming a Vestee under the Plan or a recipient of a disability benefit under this Schedule A.

(c) The monthly benefit shall become payable on proof of death satisfactory to the Trustees and shall be paid to the designee in monthly installments<sup>1</sup> the amount of each to be determined by the Trustees and shall be paid until he has received a total, which is, increasing on a straight-line basis according to qualifying years of service of the deceased Employee, an amount from a minimum of Two Thousand

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<sup>1</sup> Agreement reached to pay death benefit in lump sum, per Trustee meeting of 12/15/61.

*Exhibit 1-D*

Six Hundred Forty Dollars (\$2,640) for 5 to and including 15 years of service to a maximum of Five Thousand Dollars (\$5,000) for 20 years of service. The total amounts of the benefit are subject to the power reserved to the Union and Association by paragraph (c), Section 2, Article V of the Agreement to decrease, defer or eliminate payment of the death benefit. Requirements for qualifying [5] years of service over 15 in proportion to calendar years shall be as in paragraph (e) of Section 1 hereof.

3. DESIGNEEES.

The Trustees shall determine and by regulation define what classes of persons shall be eligible to receive such disability and death benefits as designees, insofar as permitted under 29 USC Section 186. Any payment made by the Trustees to designees in accordance with their determination of eligibility shall be in complete discharge of the liability for any such benefit under this Schedule A or the Plan.

4. QUALIFYING YEARS OF SERVICE.

(a) An Employee shall be deemed to have a qualifying year of service in any payroll year if during such payroll year he satisfies any of the following requirements:

(1) During any such payroll year prior to 1945 he was fully registered, or he was a permit man and worked 480 hours.

(2) During any such payroll year after 1944 he qualified for a vacation or worked sufficient hours to qualify for a vacation in his port.

(3) During any such payroll year he served as a Coast Committeeman or as an officer of the Union or a local, or in the joint employ of the parties hereto while fully registered.

*Exhibit 1-D*

(4) During any such payroll year he was continuously absent from employment under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, or any predecessor to any of said collective-bargaining agreements, because of industrial illness or injury arising out of employment under such collective-bargaining agreements so as to be entitled [6] to compensation under a state or federal compensation act, or because of illness or injury proximately causing his death, if such illness or injury was incurred in a payroll year ending subsequent to January 1, 1961. The Trustees may, in their sole, absolute and unreviewable discretion, credit an Employee with a qualifying year of service when the Trustees are satisfied that such Employee was absent from work by reason of such an illness or injury for less than a payroll year but for such an extended period that such Employee could not have acquired a qualifying year of service by making himself available regularly for such employment while not suffering from such illness or injury.

(5) Years of service in the Armed Forces of the United States during World War II or during the Korean Conflict shall be counted as qualifying years of service, and military service at any other time shall be counted as military service for the term of one enlistment or draft, but will not be counted in addition to World War II or Korean Conflict service, and will in no case be counted for more than four years; provided that the Employee was fully registered as required under paragraphs (a)(1) of Sections 1 and 2 hereof immediately prior to his entrance into military service, and returned to the active work force within 120 days after discharge, or

*Exhibit 1-D*

within a longer period if not physically qualified for return to the active work force within 120 days, and if the Employee has since his return to the active work force qualified for a vacation in his port; and provided that no more qualifying years of service be credited to an Employee by reason of this paragraph than would have been credited to [7] such employee if he had been continuously available for work:

(b) The following shall not be deemed qualifying service as an Employee:

(1) Continuous absence from employment for a payroll year or more because of illness or injury, other than specified in paragraph (a)(4) of this Section 4.

(2) Service in the Armed Forces of the United States except as specified in paragraph (a)(5) of this Section 4 or employment during World War II by the United States as a civilian in occupations comparable to those covered by the aforesaid collective-bargaining agreements.

(3) Years of service described under paragraph (a) of this Section 4 of Schedule A which are earned after July 1, 1961, by an Employee who is 65 years of age or older.

(c) Qualifying years of service earned under said Pacific Coast Longshore Agreement, or any predecessor thereto, said Master Agreement for Clerks and Related Classifications, or any predecessor thereto, or any of said miscellaneous related agreements, or any predecessors thereto, shall be interchangeable.

**Exhibit 1-E**

**[1] SCHEDULE B**

**VESTING BENEFITS**

**1. VOLUNTARY REMOVAL FROM FURTHER EMPLOYMENT.**

(a) An Employee shall become a Vestee and be eligible to receive the monthly vesting benefit set forth in paragraph (b) of Section 1 hereof commencing on or after July 1, 1961, upon meeting each of the following requirements:

(1) He is, and was, for the nine calendar years immediately preceding the date on which he elects to become a vestee, fully registered under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, and makes himself regularly available for work unless he is disabled through illness or injury or is on a recognized leave of absence.

(2) He has at least 25 years of qualifying service out of the past 35 calendar years.

(3) He is at least 62 years of age.

(4) He has voluntarily removed himself from the active work force in compliance with the regulations adopted by the Trustees of the ILWU-PMA Vesting Benefit Trust.

(5) He was credited with a qualifying year of service for the payroll year prior to the payroll year in which he elects to remove himself from further employment.

(b) Vestees shall receive the total sum of Seven Thousand Nine Hundred Twenty Dollars (\$7,920) in 36 monthly



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payments of Two Hundred [2] Twenty Dollars (\$220) each, less applicable payroll and withholding taxes, subject to the power of said Trustees to pay said total sum in monthly payments of not less than One Hundred Dollars (\$100), as they may in their sole, absolute and unreviewable discretion decide, and subject to the power reserved to the Union and Association by paragraph (c), Section 2, Article V of the Agreement to decrease, defer or eliminate payment of the vesting benefit.

2. MANDATORY REMOVAL FROM FURTHER EMPLOYMENT.

(a) An Employee shall become a Vestee and be eligible to receive the monthly vesting benefit set forth in paragraph (b) of Section 2 hereof commencing on or after July 1, 1961, upon meeting each of the following requirements:

(1) He is fully registered under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, and makes himself regularly available for work unless he is disabled through illness or injury or is on a recognized leave of absence.

(2) He is age 62 and has at least 22 qualifying years of service out of the past 32 calendar years, or he is age 63 and has at least 23 qualifying years of service out of the past 33 calendar years, or he is age 64 and has at least 24 qualifying years of service out of the past 34 calendar years.

(3) He is compelled to remove himself from the active work force by mutual agreement of the Union and the Association or by decision of an arbitrator under and in accordance with Section 4 of Article VI of the Agreement that such separation from

*Exhibit 1-E*

the active work force is deemed necessary for implementing the Plan.

[3] (b) Employees becoming Vestees under this Section 2 shall receive the total sum of Seven Thousand Nine Hundred Twenty Dollars (\$7,920) in 36 monthly payments of Two Hundred Twenty Dollars (\$220) each, less applicable payroll and withholding taxes, subject to the power of said Trustees to pay said total sum in monthly payments of not less than One Hundred Dollars (\$100), as they may in their sole, absolute and unreviewable discretion decide, and subject to the power reserved to the Union and Association by paragraph (c), Section 2, Article V of the Agreement to decrease, defer or eliminate payment of the vesting benefit. In addition, any such Vestee shall receive an extra payment of One Hundred Dollars (\$100) per month, less applicable payroll and withholding taxes, until he reaches age 65, *i.e.*, from the date he is compelled to leave the active work force until his 65th birthday, except that a designee of such a Vestee shall not be entitled to receive said extra payment. Said extra payment shall be made when the need therefor arises by and from the ILWU-PMA Pension Fund as an incident of the ILWU-PMA Pension Plan.

### 3. DESIGNEES.

Said Trustees shall determine and by regulation define what classes of persons shall be eligible to receive vesting benefits as designees, insofar as permitted under 29 USC Section 186. Any payment made by the Trustees to designees in accordance with their determination of eligibility shall be in complete discharge of their liability for any such benefit under this Schedule B or the Plan.

*Exhibit 1-E*

4. DEATH PROVISION.

In the event a Vestee dies before the total sum of Seven Thousand Nine Hundred Twenty Dollars (\$7,920) has been paid to him, his designee shall receive the monthly benefits which would have been due the Vestee [4] had he continued to live, excluding therefrom the additional payments provided for under paragraph (b) of Section 2 hereof.

5. ACCELERATED PAYMENT.

All benefits to Vestees, or their designees, under the Vesting Benefit Trust shall be by monthly payments, except that upon application of the Vestee, or his designee, his showing cause, and the availability of moneys in the Mechanization Fund, the Trustees may, in their sole, absolute and unreviewable discretion, accelerate payment of the balance of the vesting benefit to which a Vestee, or his designee, may be entitled.

6. QUALIFYING YEARS OF SERVICE.

(a) An Employee shall be deemed to have a qualifying year of service in any payroll year if during such payroll year he satisfies any of the following requirements:

(1) During any such payroll year prior to 1945 he was fully registered, or he was a permit man and worked 480 hours.

(2) During any such payroll year after 1944 he qualified for a vacation or worked sufficient hours to qualify for a vacation in his port.

(3) During any such payroll year he served as a Coast Committeeman or as an officer of the Union or a local, or in the joint employ of the parties hereto while fully registered.

*Exhibit 1-E*

(4) During any such payroll year he was continuously absent from employment under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, or any predecessor to any of said collective-bargaining agreements, because of industrial illness or injury arising out of employment under such collective-bargaining agreements so as to be entitled to [5] compensation under a state or federal compensation act. The Trustees may, in their sole, absolute and unreviewable discretion, credit an Employee with a qualifying year of service when the Trustees are satisfied that such Employee was absent from work by reason of such an illness or injury for less than a payroll year but for such an extended period that such Employee could not have acquired a qualifying year of service by making himself available regularly for such employment while not suffering from such illness or injury.

(5) Years of service in the Armed Forces of the United States during World War II or during the Korean Conflict shall be counted as qualifying years of service, and military service at any other time shall be counted as military service for the term of one enlistment or draft, but will not be counted in addition to World War II or Korean Conflict service, and will in no case be counted for more than four years; provided that the Employee was fully registered as required under paragraphs (a) (1) of Sections 1 and 2 hereof immediately prior to his entrance into military service, and return to the active work force within 120 days after discharge, or within a longer period if not physically qualified for return to the active work force within 120 days, and

*Exhibit 1-E*

if the Employee has since his return to the active work force qualified for a vacation in his port; and provided that no more qualifying years of service be credited to an Employee by reason of this paragraph than would have been credited to such Employee if he had been continuously available for work.

(b) The following shall not be deemed qualifying service as an Employee:

[6] (1) Continuous absence from employment for a payroll year or more because of illness or injury, other than specified in paragraph (a) (4) of this Section 6.

(2) Service in the Armed Forces of the United States except as specified in paragraph (a) (5) of this Section 6 or employment during World War II by the United States as a civilian in occupations comparable to those covered by the aforesaid collective-bargaining agreements.

(3) Years of service described under paragraph (a) of this Section 6 of Schedule B which are earned after July 1, 1961, by an Employee who is 65 years of age or older.

(c) Qualifying years of service earned under said Pacific Coast Longshore Agreement, or any predecessor thereto, said Master Agreement for Clerks and Related Classifications, or any predecessor thereto, or any of said miscellaneous related agreements, or any predecessors thereto, shall be interchangeable.

7. DISQUALIFICATION.

An Employee who has qualified for a disability benefit under the Plan and has received payment of any portion



*Exhibit 1-F*

thereof or who has received a pension payment under the ILWU-PMA Pension Plan and has subsequently returned to work as an Employee shall in no event qualify hereunder as a Vestee or be entitled to payment of a vesting benefit in accordance with the provisions of the Plan. An Employee who becomes a Vestee and is as such entitled to receive payment of a vesting benefit under the Plan shall in no event be allowed to return to the active work force unless the parties hereto mutually agree in writing to such return and then only on such conditions as said parties may prescribe.

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**Exhibit 1-F**

**[1] SCHEDULE C**

**SUPPLEMENTAL WAGE BENEFITS**

**1. EXPLANATORY STATEMENT.**

*(a) General Purpose and Nature of Benefit.*

(1) Supplemental wage benefits are designed to afford compensation to eligible Employees whose earnings have been reduced below minimum levels, as herein defined, because of reduced work opportunities suffered by such Employees (despite the fact they have made themselves regularly available for employment), resulting from labor-saving devices and changed work practices adopted by Employers under the permissive provisions referred to in Section 1 (a) of Article VI of the Agreement as incorporated in said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, or several of any of said collective-bargain-

*Exhibit 1-F*

ing agreements, all of which were ratified as of January 10, 1961.

(2) Such supplemental wage benefits are not to compensate Employees on account of reduced [2] work opportunities caused by any economic decline in the Pacific Coast shipping industry and a resultant reduction in the amount of cargo tonnage handled during any period.

(3) Whether or not any such reduction in work opportunities has been caused by such an economic decline or instead has resulted from labor-saving devices or changed work practices adopted by Employers under such premissive provisions shall be determined by the Trustees of the ILWU-PMA Supplemental Wage Benefit Trust in accordance with the formula set forth in Appendix II of this Schedule C.

(b) *Evaluation by Port Areas.* For the purpose of determination by the Trustees of when or whether such Employees have suffered reduced earnings below such minimum levels because of reduced work opportunities resulting from the adoption by Employers of such labor-saving devices and work practices and not from such an economic decline, relevant factors, as herein designated, shall be evaluated by said Trustees on a Port Area basis. A Port Area shall embrace the port, ports or docks in a given area in the States of California, Oregon and Washington when by custom and practice Employees who [3] work out of one port are also customarily offered work at other ports or docks. A single port may comprise a Port Area only if Employees who work out of that port are not customarily offered work in another port. Two ports may comprise a Port Area only if Employees who work out of one of such ports are also customarily offered work in the other port

*Exhibit 1-F*

and such Employees are seldom offered work at a third port.

(c) *Longshore and Marine Clerk Groups.* For the same purpose described in paragraph (b) of this Section 1, Employees shall be assigned by Port Area to one of two Groups: one Group shall be longshoremen whose terms and conditions of employment are governed by said Pacific Coast Longshore Agreement or said miscellaneous related agreements; the other Group shall be marine clerks and Employees in related classifications whose terms and conditions of employment are governed by said Master Agreement for Clerks and Related Classifications.

(d) *Benefit Periods.* A Benefit Period shall be comprised of four consecutive payroll weeks, and said Trustees shall establish a consecutive series of Benefit Periods, without overlapping of, or interval between, Benefit Periods, commencing with the payroll week which includes January 15, 1961.

(e) *Measure of Benefit.* Averages of total hours worked by Employees in each Group in each Port Area [4] shall be determined by said Trustees for each Benefit Period, herein called Group Averages, in accordance with the formula set forth in Appendix I of Schedule C. Pursuant to said formula, and the provisions of Section 4 hereof said Trustees shall also determine for each such Benefit Period whether the relationship between the earnings of any Employee during such Benefit Period and the average earnings of the Group to which such Employee belongs entitled such Employee, if otherwise eligible, to receive a supplemental wage benefit for such Benefit Period.

(f) *Eligibility for Benefit.* Eligibility requirements that must be met by an Employee before he is entitled to receive a supplemental wage benefit are set forth in Section 3 hereof.

*Exhibit 1-F*

(g) *Paramount Provisions.* All of the provisions of this Section 1 are of an explanatory nature, and although the same shall be given effect and meaning as an integral part of this Schedule C, if any term or provision in this Section 1 is inconsistent with any term or provision set forth in subsequent sections of this Schedule C or of Appendices I or II hereof or any provision of the ILWU-PMA Supplemental Wage Benefit Trust the provisions of such subsequent sections or Trust shall be deemed paramount and controlling as to the meaning and effect of any such term or provision [5] in this Section 1; provided that, although the Trustees of the ILWU-PMA Supplemental Wage Benefit Trust shall not have power to change the formulas of paragraph (a) (5) of Section 3 or of Appendices I and II hereof, said Trustees may, in exercise of their discretion, change the amount or numbers of established norms of hours, weeks, or percentage of Group Average, or percentage of total Employees set forth in said formulas, or the amount of \$4,800.00 or benefit amount product referred to in paragraph (a)(6) of Section 3 hereof when it appears to said Trustees that said norms operate to preclude realization of the purpose of the Supplemental Wage Benefit Trust.

2. PAYMENT OF BENEFIT FOR QUALIFYING PERIODS.

(a) Supplemental wage benefits shall be payable as to a Group in a Port Area for a Benefit Period when the Group Average of such a Group is less than 140 hours for such Benefit Period.

(b) Said supplemental wage benefits for said Benefit Period shall be paid in a lump sum, in an amount determined pursuant to the provisions of Section 4 hereof, to each Employee, who, during said Benefit Period, is or was a member of such Group and is eligible under the provisions of Section 3 hereof, by said Trustees as soon as they may reason-



*Exhibit 1-F*

ably determine that [6] such a supplemental wage benefit is payable.

**3. ELIGIBILITY FOR BENEFIT.**

(a) An Employee shall be eligible for a supplemental wage benefit in an amount determined pursuant to the provisions of Section 4 hereof when he has established in compliance with regulations adopted by said Trustees that he meets each of the following requirements:

(1) He has been fully registered within the meaning and under the provisions of said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications or said miscellaneous related agreements at least three years and during a Benefit Period for which said supplemental wage benefit is payable pursuant to paragraph (a) of Section 2 hereof and remains so when said supplemental wage benefit is to be paid pursuant to paragraph (b) of said Section.

(2) He has sufficient hours to qualify for a two week vacation payable in the payroll year which includes the Benefit Period for which said supplemental wage benefit is payable pursuant to the provisions of paragraph (a) of Section 2 hereof.

[7] (3) During the Benefit Period for which said supplemental wage benefit is payable and until the same has been paid pursuant to the provisions of paragraph (b) of Section 2 hereof, he has been available and has not refused dispatch for his work and has not participated, and is not participating, in any work stoppage in violation of said applicable collective-bargaining agreements.

(4) He is not during the Benefit Period for which a supplemental wage benefit is payable pur-



*Exhibit 1-F*

suant to the provisions of paragraph (a) of Section 2 hereof an Excluded Employee as that term is described in Appendix I hereof.

(5) His total hours worked or credited to him during a Benefit Period for which a supplemental wage benefit is payable pursuant to the provisions of paragraph (a) of Section 2 hereof are at least 93% of the Group Average of his Group for said Benefit Period.

(6) His total earnings for the 12 consecutive Benefit Periods immediately preceding the Benefit Period for which a supplemental wage benefit is payable under paragraph (a) of Section 2 hereof, which earnings have [8] been multiplied by the decline adjustment factor determined pursuant to the provisions of Appendix II hereof when said factor for his Port Area for said Benefit Period exceeds 100%, do not exceed the larger of either \$4,800.00 or 12 times the benefit amount if the same is determined pursuant to the provisions of Paragraph (b) of Section 4 hereof.

(b) "Total earnings" of an Employee shall include any benefits previously paid under the Plan and all compensation paid to or for the account of such Employee under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or said miscellaneous related agreements, or any of said collective-bargaining agreements, including therein all straight-time, overtime and penalty wages; vacation pay; workmen's compensation payable under any private or public insurance coverage for which an Employer pays all or a portion of the premiums, to the extent such work-

*Exhibit 1-F*

men's compensation is a payment in lieu of earnings lost by reason of absence from work. "Total earnings" shall not include any compensation paid to an Employee for travel time or expenses incurred in connection with travel, or any distribution from the ILWU-PMA Welfare Fund to or for the account or benefit of an Employee.

[9] (c) "Total hours worked" by an Employee shall be determined in accordance with the provisions of Section 3 of Appendix 1 hereof.

(d) Notwithstanding any provision of this Schedule C, an Employee who has received or is receiving payment of a vesting benefit or a death or disability benefit provided by the Plan, or of a pension under the ILWU-PMA Pension Plan shall not be eligible to receive a supplemental wage benefit payable for any Benefit Period.

#### 4. AMOUNT OF BENEFIT.

(a) Subject to the provision of paragraphs (b) to (d), inclusive, of this Section 4, the maximum amount of a supplemental wage benefit shall be \$400 for each Benefit Period in which a supplemental wage benefit is payable pursuant to the provisions of paragraph (a) of Section 2 hereof.

(b) Said Trustees may increase the maximum amount of the supplemental wage benefit which is payable to Employees in a Group for a Benefit Period to an amount equal to 140 times the basic straight-time hourly rate payable to Employees under said Pacific Coast Longshore Agreement.

(c) The amount of the supplemental wage benefit, determined pursuant to the provisions of either paragraph (a) or (b) of this Section 4, and payable for a [10] Benefit Period under the provisions of paragraph (a) of Section 2

*Exhibit 1-F*

hereof to an eligible Employee, shall be reduced by the total of the following items:

(1) His total earnings determined pursuant to the provisions of paragraph (b) of Section 3 hereof plus any other earnings from other employment for said Benefit Period, but excluding therefrom any payments during the Benefit Period of workmen's compensation, and vacation pay unless an authorized vacation was in fact taken during the Benefit Period in which case that portion of vacation pay attributable to the time the man was on vacation during the Benefit Period shall be included within said total earnings.

(2) Unemployment insurance compensation, if any, received by such Employee for said Benefit Period.

(d) Notwithstanding any provision of this Schedule C, the maximum amount of a supplemental wage benefit payable to an Employee eligible therefor shall not exceed the difference between 140 hours and the Group Average of his Group in the Benefit Period for which said supplemental wage benefit is payable, multiplied by \$2.857 or, if said Trustees have increased the [11] amount of the supplemental wage benefit pursuant to the provisions of paragraph (b) of this Section 4, by the basic straight-time hourly rate so adopted by said Trustees.

5. **DISCLAIMER:** Neither the Association, any Employer, any Principal nor the Union guarantees that the portion of the Mechanization Fund allocable or allocated to the ILWU-PMA Supplemental Wage Benefit Trust shall be sufficient to pay the benefits provided by this Schedule C, and none of them shall be required by any provision of the Plan to provide otherwise for payment of such supplemental wage benefits or any portion thereof.

*Exhibit 1-F*

[1] APPENDIX I TO SCHEDULE C

1. For each Benefit Period a Group Average for each Group in each Port Area shall be computed by finding the average of the total hours worked during a Benefit Period by a representative class of Employees in such Group.

(a) Such representative class of Employees in such Group shall be comprised of those Employees included herein by reason of the provisions of subparagraphs (1), (2), (3) and (4) below.

(1) Each of those Employees in such Group whose total hours worked or credited to him is at least 360 hours within a period of 12 consecutive payroll weeks, the last of such 12 consecutive payroll weeks to be the last payroll week of the Benefit Period, shall be included in said representative class. If the Employees included under this subparagraph (1) equal 70% or more of the total Employees in the Group, then such included Employees shall constitute the entire representative class and the provisions of subparagraphs (2) and (3) do not apply.

[2] (2) Each of those Employees not included by reason of subparagraph (a) (1) of this Section 1 but whose total hours worked or credited to him is at least 30 hours in each of 8 payroll weeks within a period of 12 consecutive payroll weeks, the last of such 12 consecutive payroll weeks to be the last payroll week of the Benefit Period, if at least 2 of said 8 payroll weeks are within the Benefit Period, shall be included in said representative class.

(3) If the total of Employees included by reason of subparagraphs (1) and (2) do not equal at least 70% of the Total Employees of the Group, then the following Employees shall be included.

*Exhibit 1-F*

(i) The total number of Employees in the Group for such Benefit Period shall now be multiplied by 70% and the product thereof shall be reduced by the sum of the number of Employees to be included under subparagraph (1) plus the number included under subparagraph (2) above. The difference, if any, shall be the number of Employees to be included [3] under this subparagraph (3). Employees to be included under this subparagraph (3) shall be chosen according to individual totals of hours worked and credited to them during the Benefit Period, starting from the highest to the lowest and shall be those who are not to be included within said representative class by reasons of subparagraphs (1) and (2) above.

(ii) All Employees within a Group who have the same total hours worked plus hours credited to them during the Benefit Period shall be included within the representative class thereof, if the provisions of this subparagraph (3) become operative, notwithstanding that not all such Employees are required to insure that said representative class is comprised of at least 70% of the Employees within the Group for such Benefit Period.

(4) An Employee who is on a visitor's permit shall not be included within said representative class of the Group within which he is permitted to make himself available for employment by reason of said visitor's permit.



*Exhibit 1-F*

[4] (b) Total hours worked, including hours credited, during the Benefit Period by such representative class of a Group which has been developed pursuant to the provisions of paragraph (a) of this Section 1 shall be ascertained and divided by the total number of Employees included in such representative class. This quotient shall be the Group Average for the Group during a Benefit Period.

2. An Employee who is within a Group during a Benefit Period but is not also within the representative class thereof established pursuant to the provisions of paragraph (a) of Section 1 hereof shall be, for the purposes of Schedule C, deemed an Excluded Employee for such Benefit Period.

3. (a) "Total hours worked" by an Employee shall include all hours for which he was entitled to compensation either at straight-time, overtime, or penalty rates; all hours which would be credited to him by reason of an on-the-job injury, or a non-industrial illness or injury, under the provisions of the ILWU-PMA Longshore Agreement on Vacations; and, subject to paragraph (b) of this Section 3, all vacation time for which he has already received vacation pay under said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, or any of said miscellaneous related agreements, or any of [5] several of said collective-bargaining agreements, each day of vacation to be counted as 8 hours; provided, however, hours, or portions thereof, for which an Employee has been allowed "travel time" shall not be included within said "total hours worked".

(b) Vacation time shall be included within the total hours worked by an Employee in a Benefit Period, or portion thereof, when such Employee is on an authorized vacation.

*Exhibit 1-F*

(c) All vacation time included within the total hours worked by an Employee shall be allocated to the Group of which such Employee was a member when he was on an authorized vacation, notwithstanding such Employee was not a member of such Group when such vacation, or portion thereof, was earned.

[1] APPENDIX II TO SCHEDULE C

1. Whenever for a Benefit Period a Port Area's decline adjustment factor determined pursuant to the provisions of this Appendix II exceeds 100%, an adjustment shall be made, as directed by paragraph (a)(6) of Section 3 of Schedule C, to an Employee's total earnings for 12 consecutive Benefit Periods immediately preceding the Benefit Period for which a supplemental wage benefit is payable pursuant to the provisions of paragraph (a) of Section 2 of Schedule C. No such adjustment shall be made when said decline adjustment factor is 100% or less.

2. Whenever a supplemental wage benefit is payable for a Benefit Period pursuant to the provisions of paragraph (a) of Section 2 of Schedule C, a decline adjustment factor shall be determined for each Port Area for each Benefit Period commencing with the Benefit Period in which January 1, 1962 falls, as follows:

(a) The average annual tonnage handled in such Port Area during the base period shall be computed.

(b) The tonnage handled in such Port Area in a period comprised of 12 calendar months, the last of which ends in such Benefit Period, shall be computed.

[2] (c) The decline adjustment factor for such Port Area in such Benefit Period shall be the percentage resulting from the division of the tonnage figure developed pursuant

*Exhibit 1-F*

to the provisions of paragraph (a) of this Section 2 by the tonnage figure developed pursuant to the provisions of paragraph (b) of this Section 2.

3. The base period referred to in Section 2 hereof shall be January 1, 1959, to and including December 31, 1960, or such other period which is determined pursuant to the provisions of this Section 3. The Trustees may adopt an alternative base period which they, in their sole judgment, decide more accurately reflects the normal operating conditions of a Port Area prior to implementation of the provisions of the Agreement pertaining to the increasing of efficiency in operations by utilization of labor-saving devices and the elimination of restrictive work practices. In the event of a deadlock among said Trustees, the same shall be resolved under and in accordance with the procedures established by the provisions of Section 4 of Article VI of the Agreement, excluding therefrom the Coast Labor Relations Committee or Coast Arbitrator established or appointed under the Master Agreement for Clerks and Related Classifications solely. The decision of said Trustees, the Coast Labor Relations Committee, or Coast Arbitrator, as the case may be, [3] shall be conclusive and binding on all persons howsoever interested in the Plan.

4. For the purposes of Section 2 hereof, "tonnage" shall be ascertained by giving a weight of one (1) to each ton or equivalent measurement ton, of general cargo, lumber and logs; and a weight of two-tenths (.2) to each ton, or equivalent measurement ton, of bulk dry cargo such as grain, ore and copra. The Trustees shall have power to decide whether in the light of the usual classifications adopted by the Pacific Coast shipping industry a commodity is "bulk dry cargo". The Association and Union, from time to time, during the term of the Agreement may by their mutual agreement change the method provided by this Section 4 for ascertaining "tonnage".

### Exhibit 1-G

[1] PACIFIC MARITIME ASSOCIATION  
16 California Street  
Phone Douglas 2-7973  
San Francisco 11, Cal.

November 15, 1961

International Longshoremen's &  
Warehousemen's Union  
150 Golden Gate Avenue  
San Francisco, California

Gentlemen:

As of the above date, the Union and Association executed the ILWU-PMA Supplemental Agreement on Mechanization and Modernization, which formalizes and supersedes the Memorandum of Agreement on Mechanization and Modernization of October 18, 1960.

By paragraph (a) of Section 1 of Article VI of the ILWU-PMA Supplemental Agreement on Mechanization and Modernization, the parties thereto acknowledge that the provisions of said Memorandum of Agreement which are not identified as having been incorporated in said ILWU-PMA Supplemental Agreement on Mechanization and Modernization have been incorporated in the Pacific Coast Longshore Agreement, the Master Agreement for Clerks and Related Classifications, and certain miscellaneous related agreements, all of which collective-bargaining agreements were ratified by both parties thereto as of January 10, 1961. However, the process of integrating the provision of said Memorandum of Agreement which are to be incorporated into said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, and said miscellaneous related agreements has not been completed as of the date hereof. While expeditious completion of said process is anticipated by the parties hereto, they do not wish to delay the execution of

*Exhibit 1-G*

said Supplemental Agreement on Mechanization and Modernization and implementation of the Plan until such time.

By reason of the premises, the Union and Association agree that, notwithstanding their execution of said Supplemental Agreement on Mechanization and Modernization and despite said provisions of paragraph (a) of Section 1 of Article VI, said provisions of said Memorandum of Agreement, which are to be incorporated into said Pacific Coast Longshore Agreement, said Master Agreement for Clerks and Related Classifications, and said miscellaneous related agreements, shall not be superseded but shall continue in full force and effect pending execution of said collective-bargaining agreements by the Union and Association.

[2] All other provisions of said Memorandum of Agreement are, however, in accordance with said provisions of paragraph (a) of Section 1 of Article VI, superseded by said Supplemental Agreement on Mechanization and Modernization, and, when said other collective-bargaining agreements have been completed and executed by the Union and Association, the provisions of said Memorandum of Agreement to be incorporated in said other collective-bargaining agreements shall be superseded as provided by said paragraph (a) of Section 1 of Article VI of said Supplemental Agreement on Mechanization and Modernization.

The signatures below of our respective duly authorized officers confirm our mutual agreement hereinabove set forth.

Very truly yours,

PACIFIC MARITIME ASSOCIATION

By s/ J. PAUL ST. SURE

Approved and Confirmed:

INTERNATIONAL LONGSHOREMEN'S AND

WAREHOUSEMEN'S UNION

By s/ HARRY BRIDGES



**Exhibit 1-H**

**[1] PACIFIC MARITIME ASSOCIATION**  
16 California Street  
Phone Douglas 2-7973  
San Francisco 11, Cal.

November 15, 1961

International Longshoremen's &  
Warehousemen's Union  
150 Golden Gate Avenue  
San Francisco, California

Gentlemen:

As of the above date, the Union and Association executed the ILWU-PMA Supplemental Agreement on Mechanization and Modernization, and, pursuant to the provisions thereof, established the ILWU-PMA Vesting Benefit Trust and ILWU-PMA Supplemental Wage Benefit Trust. In accordance with said Agreement, the Association shall transfer to the various trusts to be employed for effectuation of the Plan substantial sums heretofore collected by the Association from Employers subject to said Agreement.

In transferring said sums to the respective trusts provided for by said Agreement, the Association is relying on certain rulings of the Internal Revenue Service, which are referred to in Section 6 of Article VI of said Agreement; the Association will submit the formal documents establishing the Plan to the Ruling Division of the Internal Revenue Service to obtain confirmation that such documents conform with the outline of the Plan set forth in the rulings heretofore obtained and that the rulings, therefore, remain in full force and effect. Further, the Association intends to request, and anticipates obtaining, a ruling under the Fair Labor Standards Act, as amended, in the form and for the

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*Exhibit 1-H*

purpose set forth in Section 9 of Article VI of said Agreement.

By reason of the premises, the Union agrees to adopt promptly with respect to any of the instruments required for implementation of the Plan whatever provisions, if any, are necessary to assure deductibility by the Employers of their Contributions to the Plan and to obtain said ruling under the Fair Labor Standards Act, as amended.

[2] The signatures below of our respective duly authorized officers confirm our mutual agreement hereinabove set forth.

Very truly yours,

PACIFIC MARITIME ASSOCIATION  
By s/ J. PAUL ST. SURE

Approved and Confirmed:

~~INTERNATIONAL LONGSHOREMEN'S AND~~  
WAREHOUSEMEN'S UNION  
By s/ HARRY BRIDGES

**Exhibit 1-I**

**[1] PACIFIC MARITIME ASSOCIATION**  
16 California Street  
Phone Douglas 2-7973  
San Francisco 11, Cal.

November 15, 1961

International Longshoremen's &  
Warehousemen's Union  
150 Golden Gate Avenue  
San Francisco, California

Gentlemen:

Pursuant to the provisions of paragraph (b), Section 2, Article II of the ILWU-PMA Supplemental Agreement on Mechanization and Modernization executed as of the above date, the parties hereto agree that Contributions to the Mechanization Fund shall be additions to the total amount of the Mechanization Fund to be accumulated by Member Companies under this Agreement, to the extent set forth herein if and when the same are made pursuant to arrangements negotiated by the Union and acceptable to the Association by the following companies:

1. OLIVER J. OLSON & Co., and/or the SS GEORGE OLSON and owners, the SS MARY OLSON and owners, et al (excluding Contributions attributable to cargoes carried between the continental United States and the Hawaiian Islands by any of them but not excluding a determination respecting any future expanded offshore trade of them in accordance with the provisions of this letter and said paragraph (b), Section 2, Article II.)
2. SAUSE BROS. OCEAN TOWING COMPANY, INC.
3. GRIFFITH STEAMSHIP COMPANY

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*Exhibit 1-I*

4. PACIFIC INLAND NAVIGATION CO. OF INLAND TOWING  
COMPANY

5. NATIONAL METALS & STEEL CORPORATION

6. AL PEIRCE COMPANY

7. OWENS-PARKS LUMBER CO.

8. DAHL TRANSPORTATION

9. PUGET SOUND ALASKA VAN LINES

10. KOPPEL BROTHERS

[2]11. ARCHER-DANIELS-MIDLAND Co.\*

12. CARGILL, INCORPORATED \*

13. CONTINENTAL GRAIN COMPANY \*

14. LOUIS DREYFUS CORPORATION \*

15. INTERIOR WAREHOUSE COMPANY \*

16. Any company engaged in barge operations on inland waters of the Puget Sound, Columbia-Willamette Rivers, San Francisco Bay, or Los Angeles-Long Beach Harbor, and limited to Contributions attributable to service with respect to intra-state cargoes which they may be handling.

17. Any company which comes into existence after the date of execution of the Agreement and is not a Member Company and which is engaged in transporting or handling, in stevedoring or terminal operations, entirely new business, such as the movement of cargo in a revived "Chinatrade".

If any company specifically identified above or within the classes described by items 16 and 17 becomes a Member Company of the Association, all Contributions made

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\* A. Pacific N. W. Grain Elevator Operator.

*Exhibit 1-I*

thereafter by such company, as long as it remains a Member Company of the Association, shall not be an addition to the total amount of the Mechanization Fund to be accumulated by Member Companies of the Association.

If a Contribution, or portion thereof, by a company specifically identified above or within the classes described by items 16 and 17 is attributable to its growth hereafter by acquisition of business formerly conducted by a Member Company of the Association, then such Contribution, or portion thereof, shall not be an addition to, but shall reduce the total amount of the Mechanization Fund to be accumulated by Member Companies of the Association, while such company is not a Member Company.

Notwithstanding any provision hereof or of said paragraph (b), a Contribution, or portion thereof, by an Employer, or on the account of a Principal, which was a Member Company of the Association as of January 1, 1961, shall not, in any event, reduce or be an addition to the total amount of the Mechanization Fund to be accumulated by Member Companies of the Association under the Agreement but shall comprise a portion of said total amount.

[3] The signatures below of our respective duly authorized officers confirm our mutual agreement hereinabove set forth, which agreement is hereby acknowledged as being an integral part of the ILWU-PMA Supplemental Agreement on Mechanization and Modernization.

Very truly yours,

PACIFIC MARITIME ASSOCIATION  
By s/ J. PAUL ST. SURE

Approved and Confirmed:  
INTERNATIONAL LONGSHOREMEN'S AND  
WAREHOUSEMEN'S UNION  
By s/ H. J. BODINE



**Exhibit 1-J****[1] (FIRST AMENDMENT TO ILWU-PMA SUPPLEMENTAL AGREEMENT ON MECHANIZATION AND MODERNIZATION)**

THIS FIRST AMENDMENT TO ILWU-PMA SUPPLEMENTAL AGREEMENT ON MECHANIZATION AND MODERNIZATION, entered into as of the 1st day of January, 1961 by and between International Longshoremen's and Warehousemen's Union (hereinafter referred to as "Union"), representing Employees under the Plan, on behalf of itself and all long-shore and marine clerks' Locals in California, Oregon and Washington, and Pacific Maritime Association (hereinafter referred to as "Association"), representing its Member Companies under the Plan,

**WITNESSETH:**

WHEREAS, the parties hereto executed on the 15th day of November, 1961 the ILWU-PMA Supplemental Agreement on Mechanization and Modernization (hereinafter referred to as "Agreement") and caused various trusts to be created, thereby establishing as of the 1st day of January, 1961 the Plan; and

WHEREAS, pursuant to the provisions of Section 3 of Article VI of the Agreement, the Union requested a review of the basic purposes of the Plan and proposed modifications thereto; and

WHEREAS, the parties hereto have agreed to certain modifications of said Agreement, to be effective as of January 1, 1962.

NOW, THEREFORE, in consideration of the premises, the parties hereto agree as follows:

*Exhibit 1-J*

[2] The following paragraph shall be, and hereby is, added as paragraph (c) of Section 1 of Schedule B, attached to said Agreement:

“(c) An Employee who could otherwise qualify as a Vestee entitled to a vesting benefit hereunder upon complying with the requirements of subparagraph (4) of paragraph (a) of Section 1 hereof but who does not then elect to remove himself from the active work force shall not be precluded at a later date from becoming a Vestee hereunder because he does not work a sufficient number of hours so as to comply with the requirements of subparagraphs (2) and (5) of said paragraph (a) between the date on which he could first become a Vestee and the date of his election to remove himself from the active work force, provided that he elects to so remove himself from the active work force on or before his 68th birthday or July 1, 1966, whichever first occurs.”

Executed this 29 day of October, 1962.

For the Association:

S/ J. PAUL ST. SURE

For the Union:

S/ HARRY BRIDGES

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**Exhibit 2-D**

**(MINUTES OF REGULAR QUARTERLY MEETING**

**OF**

**BOARD OF DIRECTORS**

**OF**

**PACIFIC MARITIME ASSOCIATION,  
DECEMBER 12, 1962)**

**[1] Meeting No. 7**

**Time:** December 12, 1962—10:00 A.M.

**Place:** 16 California Street, Room 202

**Present:** *Directors*

**Messrs.** W. B. Adams  
David Gregory  
Robert M. Richardson  
S. F. Alioto  
J. R. Page  
George B. Schirmer  
Fred R. Smith  
Peter Howard  
D. N. Lillevand  
Fulton W. Wright

***Alternates***

**Messrs.** Arno Sieck  
Hubert Brown  
William R. Purnell, Jr.  
J. E. Strowger  
**Cpts.** John Knox  
E. H. Gluck  
J. W. Dickover  
Dale E. Collins

*Exhibit 2-D*

Also

Present: Messrs. C. R. Redlich  
E. Horsman

Staff: Messrs. St. Sure  
Goodenough  
Bourke  
MacEvoy  
Dellwig  
Cornell  
Holtgrave  
Saysette  
Lancaster  
Snyder  
Robertson

A quorum being present the meeting was called to order by the Chairman at 10:05 A.M.

[2] MEMBERSHIP CHANGES:

*Weyerhaeuser Steamship Company*

By letter dated November 28, 1962, Weyerhaeuser Steamship Company informed the Association that the name of the company had been changed to Weyerhaeuser Line, Division of Weyerhaeuser Company.

*Consolidated Marine, Inc.*

A letter of application for membership dated October 30, 1962, was received from Consolidated Marine, Inc.

It was moved, seconded and unanimously carried that Consolidated Marine, Inc. be admitted as a member of this Association with a waiver of the initiation fee.

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*Exhibit 2-D**Olympic-Griffiths Lines, Inc.*

Letter of resignation dated September 4, 1962, was received from Olympic-Griffiths Lines, Inc.

The Board of Directors accepted the resignation of Olympic-Griffiths Lines, Inc. with regret.

It was agreed that Mr. David Gregory would remain as a Director of this Association.

PACIFIC FOREIGN TRADE STEAMSHIP ASSOCIATION REPRESENTATION ON COAST EXECUTIVE COMMITTEE: The Chairman read a letter from the above Association dated November 30, 1962, suggesting that the Foreign Line Group be permitted two members on the Coast Executive Committee. The Chairman stated that a revision of the By-Laws is being considered but in the meantime it was agreed that the attendance of two members from the Foreign Line Group would be welcomed in meetings of the Coast Executive Committee.

CHANGE IN ALTERNATE DIRECTOR: By letter dated August 29, 1962, Mr. Worth Fowler has designated Mr. William R. Purnell, Jr., as [3] his alternate in place of Mr. J. F. Byrne.

BANK SIGNATURES — PACIFIC MARITIME ASSOCIATION — SOUTHERN CALIFORNIA: It was recommended that since Mr. C. J. Bourke had been transferred to Portland that Mr. Bruce C. Swafford be authorized as a third signature on Bank accounts in Southern California.

It was moved, seconded and unanimously carried that the above recommendation be approved.

MECHANIZATION FUND CONTRIBUTIONS:

*Volkswagens*

The Chairman stated that the Board of Directors had previously been informed of this situation in the meeting



*Exhibit 2-D*

of July 3, 1962. He then read a letter from Counsel of Marine Terminals Corporation, as well as a letter from PMA Counsel dated December 10, 1962.

Volkswagen has refused to pay the Mechanization Fund assessment. This Association filed suit against the stevedoring company in the United States District Court to recover the amounts of the assessments and the company in turn, impleaded Volkswagenwerk as the party ultimately liable. Volkswagenwerk answered the suit by contending that the assessments were illegal under the Shipping Act. It asked that the suit be stayed to permit proceedings before the Federal Maritime Commission to determine the legality of the assessments. The District Court granted Volkswagenwerk's request for a stay, on condition that proceedings be commenced before the Federal Maritime Commission by December 29. It is impossible to predict how long proceedings before the Commission might take. It was agreed that the Chairman will convene a meeting with PMA Counsel and stevedore Counsel to determine a course of action under the present situation.

[4] *Coastwise Lumber*

The Chairman reviewed the resolutions adopted at Meeting No. 4 July 3, 1962, respecting the contribution rate to the Mechanization Fund with respect to lumber moving in the coastwise trade and subject to penalty rates of \$1.00 per hour straight time and \$1.50 per hour overtime. It now appears that other lumber moving in the coastwise trade is subject to penalty rates of 28 cents per hour straight time and 42 cents per hour overtime with respect to which the contribution rate to the Mechanization Fund should be modified.

It was moved, seconded and unanimously carried that effective as of January 16, 1961, the contribution rate on all lumber moving in the coastwise trade between ports in Washington, Oregon and California shall be \$.05 per ton,

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*Exhibit 2-D*

2½ cents of which is paid at the port of loading and 2½ cents at the port of discharging.\* 1000 board feet of lumber shall constitute a ton. The coastwise trade shall be deemed, and be limited to, such trades to which the penalty rates of either \$1.00 per hour straight time and \$1.50 per hour overtime, or 28 cents per hour straight time and 42 cents per hour overtime, as set forth in the basic Longshore Agreement, pertain.

**STEWARDS' LITIGATION:** The Chairman stated that the question as to reimbursement of Counsel of individual member companies had been discussed in the previous meeting of July 3, 1962. The Chairman [5] stated as of yet there has been no solution to this problem.

After considerable discussion it was agreed that a Committee composed of Captain Dickover, and Messrs. W. Adams and P. Teige would make a recommendation to the Board of Directors on this matter.

**SEAGOING PERSONNEL ASSESSMENT:** The Chairman submitted a Schedule of Average Monthly Seagoing Personnel for the period September 30 through December 31, 1962, which in accordance with the By-Laws is used to determine seagoing personnel dues and voting strength for the fourth quarter of 1962.\*

It was moved, seconded and carried that the regular seagoing assessment be \$2.05 per man per month for the fourth quarter ending December 31, 1962.

**STEWARDS TRAINING & RECREATION, INC.:** The Chairman stated that the Association had been contributing \$5,000 per month to the support of Stewards Training & Recreation,

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\* When the commodity moves between Canada, Alaska, and the three Western States, the \$.05 per ton rate shall apply to either the loading or discharging, whichever is performed under the terms of the basic Longshore Agreement.

*Exhibit 2-D*

Inc. The MC&S Union has been advised that these contributions have ceased.

It was recommended that the 6¢ per man per day contribution for this purpose be discontinued as of November 30, 1962. The Board of Directors agreed to the discontinuance and further agreed that the disposition of the surplus in this Fund will be discussed at a later date.

**STAFF SALARIES:** The Coast Executive Committee has reviewed and approved a recommendation relative to the annual salary review. The proposal is that a sum not to exceed 5 per cent be approved,  $\frac{1}{2}$  to be applied on an "across the board" basis, and the remainder, so far as necessary, be applied to adjust individual inequities over the next 12 month period. The  $2\frac{1}{2}$  per cent "across the board" increase would become effective January 1, 1963.

[6] It was also proposed that general increases be discontinued in the future, and that a formal merit salary administration be substituted.

It was moved, seconded and unanimously carried that the above recommendations be approved.

**PMA STAFF PENSIONS:** The Chairman reported that in the past the Board of Directors has approved supplementing a staff member's pension to bring the pension to approximately 40 per cent of salary at time of retirement, including Social Security. The Association now is spending approximately \$1,600 a month for this supplementation.

It has been recommended and approved by the Coast Executive Committee that the PMA Staff Pension Plan be amended to provide for the purchase of past service annuities to correct present inadequacies and eliminate the prospective "supplemental allowances" now being given to retiring employees out of General Funds. The cost of this change would amount to approximately \$92,000 over a 10 year period.

*Exhibit 2-D*

The Chairman also reported that three individuals are retiring as of January 1, 1963—Fred Bode in San Francisco, F. X. Foeller and Walter Emig in Portland. Using the practice of the Association over the past years, Mr. Bode's retirement allowance would amount to \$334.80, including Social Security. The supplemental allowance in this case would be \$122.60 per month. Mr. Foeller would require an additional \$20.65 per month and Mr. Emig would require an additional \$22.83 per month.

After discussion it was moved, seconded and unanimously carried that the Board of Directors endorse in principle the [7] proposal of purchasing past service annuities for the affected employees, and that staff prepare a summary of the Pension Plan with the facts concerning this matter for submission to the Board of Directors for their study and decision, and in addition, Messrs. Bode, Foeller and Emig on retiring January 1, 1963, be given the supplemental allowances referred to above with the understanding that if past service credits are purchased they will then come fully under the Pension Plan.

**PACIFIC COAST DAYLIGHT TIME—OREGON:** The Oregon Office of PMA has advanced \$3,000 on this account. It is now suggested that the collection of this amount be on a ship fee basis of \$5.00 per vessel's call. This fee would be payable by companies who hadn't otherwise contributed. The Board of Directors asked staff to advise the Portland Office that they had no objection to this.

Several Directors stated that in their opinion the Association should not get into this type of local activity in the future.

**CONTRIBUTION TO INTER-ASSOCIATION UNEMPLOYMENT INSURANCE COMMITTEE:** The Board of Directors approved the annual contribution of \$1,000 to the Inter-Association Unemployment Insurance Committee.

*Exhibit 2-D*

**MECHANIZATION FUND CONTRIBUTIONS:** The Chairman reported that the current contribution formula is meeting the requirement for payments into the Fund.

**WALKING BOSS MECHANIZATION FUND CONTRIBUTIONS:** The Chairman reported that contributions to the Walking Boss Mechanization Fund have been accumulated on the basis of 4¢ per ton during the year 1962.

It is recommended that effective January 1, 1963 the contribution rate be reduced from 4¢ per ton to 2¢ per ton.

It was moved, seconded and unanimously carried that the contribution rate to the Walking Boss Mechanization Fund be 2¢ [8] per ton effective January 1, 1963.

**REPORT ON VARIOUS LABOR RELATIONS MATTERS:** The Chairman commented briefly on the following subjects.

Several meetings have been held with the Direct Employers concerning the Conformance Program and liquidated damages. It has been agreed that a Sub-Committee will meet in San Francisco to arrive at procedures and recommendations. The Chairman felt that progress was being made. He also stated that a Direct Employer had been added as a member of each Sub-Steering Committee, including the Coast Steering Committee.

A productivity study will be available in January giving the full year comparison 1960-1961 by quarters and by areas. A Sub-Committee is examining the reporting system for any improvement that can be devised.

It has been agreed in C.L.R.C. to register not more than 1,000 men on the Pacific Coast. Agreement has been reached with the ILWU that this will be done without an additional charge under the Mechanization Fund, and no liability will exist to the Fund under the wage guarantee. This is merely a stopgap to correct a problem and a study committee has been named to come up with a complete formula.



*Exhibit 2-D*

The Coast Arbitrators and the Area Managers met with the ILWU and PMA staff to discuss problems of interest to the parties. PMA staff and Coast Steering Committee feel that this was a very worthwhile meeting.

The Marine Firemen and Sailors working rule discussions have been completed. There are still some problems remaining with the MC&S.

[9] Secretary of Labor W. Willard Wirtz has handed down his Award on six items referred to him under the MM&P Agreement.

PAYMENT OF ASSESSMENTS TO ASSOCIATION: It was suggested that member steamship companies directly pay to the Association all assessments that can be handled in this manner. It was agreed that staff will check this situation and report back.

PMA BUILDING—SOUTHERN CALIFORNIA: It was reported that the lot has been purchased and the architect is engaged in drawing up plans for final approval, following which bids will be solicited. The lease on present quarters runs until April, 1963.

Meeting adjourned at 12:10 P.M.

(Signed) J. A. Robertson  
J. A. ROBERTSON  
Secretary

JAR:ah

## Exhibit 2-F

(MINUTES OF MEETING OF BOARD OF DIRECTORS AND  
AMERICAN FLAG OPERATORS OF  
PACIFIC MARITIME ASSOCIATION, JULY 3, 1962)

[1] Meeting No. 4

Time: 10:00 A.M., July 3, 1962

Place: 16 California Street, Room 202

[4] MECHANIZATION FUND CONTRIBUTIONS—REPORT OF  
FUNDING COMMITTEE: The Chairman reported that Mech-  
anization Fund contributions are now being collected on  
government cargoes.

### *Coastwise Lumber*

The Chairman reported the considerations of the Fund-  
ing Committee, respecting the rate of assessment to be  
employed for [5] the determination of contributions to the  
ILWU-PMA Mechanization Fund by Employers render-  
ing cargo-handling services involving Coastwise movements  
of lumber. It appeared that during the last decade a  
penalty rate of \$1.00 per hour straight time and \$1.50  
per hour overtime has been charged for the handling of  
such cargoes, which rate was first established by collec-  
tive bargaining as a consequence, in part, of improved  
methods of handling lumber shipped in the coastwise trade.  
Further, it appeared no other type of cargo is subject  
to a similar penalty rate. By reason of the premises the  
Funding Committee recommended a reduction in the rate  
of contributions to the Mechanization Fund with respect  
to cargo-handling services rendered cargoes of coastwise  
lumber.

It was moved, seconded and unanimously carried that  
effective as of January 16, 1961, the contribution rate on

*Exhibit 2-F*

all lumber moving in the coastwise trade shall be \$.05 per ton, 2½¢ of which is paid at the port of loading and 2½¢ at the port of discharging. 1000 board feet of lumber shall constitute a ton. The coastwise trade shall be deemed, and be limited to, such trades to which the penalty rates of \$1.00 per hour straight time and \$1.50 per hour overtime, as set forth in the basic longshore agreement pertain.

*Volkswagens*

The Board of Directors were also informed that various companies on the Pacific Coast handling Volkswagens had made no contribution to the Mechanization Fund.

The Coast Steering Committee in meeting on March 27, 1962, agreed that staff should write a letter to Marine Terminals Corporation advising that Company that the Funding Committee had [6] again reconsidered the Mechanization Fund assessment on unboxed automobiles and did not recommend any change in the present assessment. This letter has been sent.

The Coast Steering Committee further recommended that the Board of Directors modify their previous action so as to provide that PMA Counsel assist Marine Terminals Corporation (and other stevedoring companies handling Volkswagens) only if any action by or against Marine Terminals raises issues which jeopardize the Mechanization Plan or other interests of the industry, in which case PMA Counsel be authorized to intervene and, if necessary, assume responsibility for handling that portion of the action involving such issues. If PMA Counsel does not act in such circumstances, the Association reserves the right to institute action against such member companies if the companies themselves are still in default of the Mechanization Fund Assessments.

It was moved, seconded and unanimously carried that the recommendation of the Coast Steering Committee be approved.

. . .

## Exhibit 2-H

### (MINUTES OF REGULAR MEETING

OF

BOARD OF DIRECTORS

OF

PACIFIC MARITIME ASSOCIATION, DECEMBER 13, 1961)

[1] Meeting No. 11

Time: 10:00 A.M.—December 13, 1961

Place: 16 California Street, Room 202

Present: *Directors*

\* \* \*

[4] WALKING BOSS AGREEMENT: The Chairman reported that after several months of negotiations agreement had been reached with the Walking Bosses in regard to a mechanization fund and requested authorization of the Board to sign said agreement. There being no objection, the agreement was approved.

MECHANIZATION FUND—NON-MEMBER CONTRIBUTION: The Chairman read a communication from the Funding Committee covering the problem of collecting funds from Volkswagen due the Mechanization Fund. After discussion it was decided that the method of contribution originally established for this type of cargo should be maintained. Marine Terminals requested that a letter covering this discussion be forwarded to them and that they be authorized to bring suit against Volkswagen for the monies due. Marine Terminals also requested that PMA give both legal and moral support on the Volkswagen suit. It was agreed that PMA will give such support and will participate in any legal action taken and that the matter will be turned over to PMA Legal Counsel.

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*Exhibit 2-H*

Further in regard to the Mechanization Fund there was discussion about contributions on clerks' hours. Such discussion [5] was based on a memorandum dated December 13, 1961 (copy attached). Mr. Peter Teige, Chairman of the Funding Committee, explained the reasons for the changes in contribution rates covered in said memorandum and it was moved, seconded and carried that the rates referred to in the subject memo become effective as of December 18, 1961.

Further on the Mechanization Fund the Chairman reported that in the November 7, 1961 meeting of the Board the Funding Committee had made five recommendations, 4 of which had been adopted with the fifth one being held over for further discussion. Mr. Teige reported that the Funding Committee had made further study of the held over question; namely, a procedure for penalties where payments are delinquent. After review by the Board of the Funding Committee's revised proposal it was moved, seconded and carried that a policy be inaugurated whereby amounts due the M & I Fund which had not been paid 90 days from the end of the month in which the work was performed will be considered delinquent and such employers shall be charged liquidated damages, including interest on the amount delinquent, at the rate of 1% per month, or any portion of a month, commencing on the date of delinquency. Excluded from these penalties were the delinquencies on Army and Navy contracts and the Volkswagen delinquency pending final disposition of these accounts.

Meeting adjourned at 12 noon.

/s/ B. H. GOODENOUGH  
B. H. GOODENOUGH

BHG:rr



## Exhibit 2-I

(MINUTES OF MEETING OF BOARD OF DIRECTORS OF PACIFIC  
MARITIME ASSOCIATION, NOVEMBER 7, 1961)

[1] Meeting No. 10

Time: November 7, 1961—10:30 a. m.

Place: 16 California Street, Room 202

Present: *Directors*

Messrs. Clarence Morse  
John Page  
Harmon Howard

*Alternates*

Messrs. Dale E. Collins  
Wayne L. Horvitz  
Owen F. Niemann  
John Knox  
Arno Sieck  
J. F. Byrne  
E. J. Spear  
Robert M. Richardson  
A. C. Fenger  
George T. Littlejohn

Also

Present: Hubert Brown

Staff: Messrs. J. Paul St. Sure  
B. H. Goodenough  
Ralph Holtgrave  
K. F. Saysette  
Pres Lancaster  
J. A. Robertson

A quorum being present the meeting was called to order  
by the Chairman at 10:40 a.m.

*Exhibit 2-I***MEMBERSHIP:***Shaffer Terminals*

The resignation of Shaffer Terminals by letter dated October 6, 1961 was accepted.

*[2] Tacoma Stevedore & Terminal Co.*

An application for membership received from Tacoma Stevedore & Terminal Co. under date of October 9, 1961, was approved with a waiver of the initiation fee, because of a transfer of membership from Shaffer Terminals.

*Columbia Basin Terminals*

The resignation of Columbia Basin Terminals dated September 13, 1961 was accepted.

*Stockton Bulk Terminal Co. of California*

An application from Stockton Bulk Terminal Co. of California dated February 10, 1961, was approved subject to satisfactory discussions with the ILWU and the Company, because of the existence of a separate contract the Company has with the ILWU.

**CENTRAL RECORDS OFFICE EQUIPMENT:** By mailing of October 17, 1961, the Board was apprised of a recommendation for the modernization of Central Records office equipment at Portland and Wilmington.

It was moved, seconded and unanimously carried that authority be granted to proceed in line with the recommendation and the schedule.

**ILWU-PMA PENSION CONTRIBUTION:** The Chairman stated that the Agreement reached with the ILWU on Pensions had been previously reported to the Board of Directors. An increase of 5¢ per manhour as the cost of increased benefits agreed to in the pension reopener and 3¢ increased contribution due to a shrinking manhour base

*Exhibit 2-I*

are necessary. Thus, it is recommended that the contribution to the ILWU-PMA Pension Fund be 23¢ per manhour [3] effective 8:00 a.m., Monday, November 13, 1961.

It was moved, seconded and unanimously carried that the ILWU-PMA Pension Fund contribution be at the rate of 23¢ per manhour effective 8:00 a.m., Monday, November 13, 1961.

**APPOINTMENT OF TRUSTEES**

**ILWU-PMA WELFARE PLAN**

Messrs. Hubert Brown and K. F. Saysette are currently serving, and J. A. Robertson was approved as a trustee in place of J. P. Cribbin.

**ILWU-PMA PENSION PLAN**

Messrs. K. F. Saysette and B. H. Goodenough are presently serving as Employer trustees. The Board of Directors approved the appointment of Hubert Brown and J. A. Robertson (as replacement for B. H. Goodenough) as Employer trustees on the Fund.

**ILWU-PMA VESTING BENEFIT TRUST**

**ILWU-PMA SUPPLEMENTAL WAGE BENEFIT TRUST**

The Board of Directors approved Messrs. K. F. Saysette, R. J. Pfeiffer and Captain C. Pryor as Employer trustees of these Funds.

**REPORT OF FUNDING COMMITTEE:** The Chairman reported that a report has been filed by the Funding Committee under date of July 18, 1961, in accordance with action of the membership on January 10, 1961. This report states that the Committee, as of this time, has no new suggestions to make for changes in the present formula. The Funding Committee will continue to discuss this subject.

. . .

*Exhibit 2-I*

RECOMMENDATIONS OF FUNDING COMMITTEE: The Funding Committee as of August 1, 1961, made the following recommendations:

[4] (1) A new policy be inaugurated whereby amounts due the M & I Fund which have not been paid after 30 days from the end of the month in which they accrued shall at that time be deemed delinquent and such employers shall be charged liquidating damages, including interest on the amount delinquent at the rate of 1 per cent per month, or any portion of a month, commencing at the date of delinquency.

(2) A report showing the names of delinquent employers and the amount of delinquency be distributed to the membership if the employer has amounts still delinquent 30 days after the date of original delinquency.

(3) Price Waterhouse & Co. conduct a spot-check of tonnage declarations by investigating the declarations of approximately 15 employers a year, subject to holding the total expenditure for the year to \$5,000 or less. Price Waterhouse & Co. had indicated they could check an average employer for about \$300. The Committee further recommended that it might be well to have the spot-checks for this year made as soon as possible.

(4) For fund assessment purposes, Army conexes (except those shipped on a Government Bill of Lading) be treated the same as commercial *carrier loaded* containers.

(5) In view of the hardship on the part of the Army to determine the actual measurement of the cargo placed in containers, they be permitted to determine the contents based on periodic checks of the

*Exhibit 2-I*

actual *average* measurement and the use of the average percentage of utilization of the total capacity of the containers as the basis for the assessment on this containerized cargo.

It was moved and seconded that recommendations (2) through (5) be approved and that recommendation (1) be the subject of further discussion by the Committee. Unanimous:

MECHANIZATION FUND CONTRIBUTIONS ON VOLKSWAGENS: The Board of Directors was informed that the Volkswagen firm has refused to pay Mechanization Fund contributions on Volkswagens [5] stevedored by Marine Terminals (and in the Northwest by Seattle Stevedoring and Brady Hamilton). The Board of Directors agreed that the stevedoring companies should take such action as they deem best in the protection of their interest and further that this matter should be discussed with Counsel and the Funding Committee.

STAFF SALARIES: The Chairman recommended that staff, excluding the Chairman, be granted a 4 per cent general increase as of November 1, 1961.

It was moved, seconded and unanimously carried that the recommendation for a staff salary increase be approved.

ROGERS ET AL V. ALASKA STEAMSHIP COMPANY, ET AL: The Chairman explained that this litigation had been going on for a number of years. Two sets of cases were involved; one before the State Court which has been dismissed—the other in the Federal District Court. The Supreme Court has denied a writ of certiorari which leaves one possible individual case which should not be serious.



*Exhibit 2-I*

## RETIREMENTS:

*J. H. Travers*

The Chairman explained that Mr. J. H. Travers, at his request, retired on June 1, 1961, having been employed by the Association since May 15, 1930. His age at date of retirement was approximately 61½ years. The Chairman pointed out to the Board that the Association in the past has subsidized individuals on retirement in an amount sufficient to provide approximately 40 per cent of salary at date of retirement, after taking into consideration benefits received under the Federal Social Security Act.

*[6] Mrs. Rhoda Jennet*

Mrs. Jennet of the Accounting Department desires to retire effective January 1, 1962, due to ill health. Her age at retirement will be 62 years. She has been employed by the Association for 25 years. In order to maintain the 40 per cent formula, a contribution from PMA of \$70.00 per month is required.

It was moved, seconded and unanimously carried that the Association pay \$50.00 per month to J. H. Travers, effective July 1, 1961, and \$70.00 per month to Mrs. Rhoda Jennet, effective January 1, 1962.

MATTER CONTAINED IN INVESTIGATING COMMITTEE'S REPORT OF 8/12/61:

M. S. PHILIPPINE MARU—August 15-16, 1960  
Williams, Dimond & Co.

It was moved, seconded and carried:

That Williams, Dimond & Co. is guilty of violating the 'Rules of Labor Policy' as found by the Investigating Committee in its written report dated August 12, 1961;

That liquidated damages in the sum of \$5,000.00 are payable by the company to the corporation for

*Exhibit 2-I*

the account of the members of said corporation, as provided in Article XI, Section 5 of the By-Laws;

That said sum of \$5,000.00, as liquidated damages and not as a penalty, be paid within ten days after receipt of written demand therefor from the corporation;

That if said violations continue or are renewed after receipt by said company of notice of this action and demand, that appropriate additional damages shall be payable in accordance with the provisions of Article XI, Section 5 of the By-Laws.

**SEAGOING PERSONNEL ASSESSMENTS:** The average monthly seagoing personnel for the quarter ending September 30, 1961, for purposes of voting strength, and also for the basis for monthly assessments for the quarter ending December 31, 1961 was distributed.

[7] It was moved, seconded and unanimously carried that the seagoing personnel assessment be \$1.50 per man per month for the fourth quarter ending December 31, 1961.

**PALLET BOARDS:** The Chairman reported that discussion has occurred in the Coast Executive Committee and Coast Steering Committee as to the use of a universal type of board and a study of the methods of cargo handling to take full advantage of the ILWU-PMA Agreement. The Board of Directors expressed interest and agreed that PMA should explore this subject and report back.

Meeting adjourned at 12:15 p. m.

J. A. Robertson,  
J. A. ROBERTSON,  
*Secretary*

JAR:ah

**Exhibit 2-K**

(MINUTES OF MEETING OF BOARD OF DIRECTORS OF PACIFIC  
MARITIME ASSOCIATION, JULY 11, 1961)

[1] Meeting No. 6

Time: July 11, 1961—2:00 P. M.

Place: 16 California Street, Room 202

\* \* \*

**[4] FUNDING—MODERNIZATION & IMPROVEMENT FUND**

The Chairman reported that the report of the Funding Committee would be passed until the next meeting of the Board of Directors. The Funding Committee will be asked to investigate the refusal of certain Direct Employers to pay the M & I Fund Assessments. Likewise, the question of employing certified public accountants to check tonnage declarations made by companies to substantiate the tonnage declarations and contributions paid was referred to the Funding Committee for recommendation.

\* \* \*

## Exhibit 2-L

### (MINUTES OF ANNUAL MEETING OF MEMBERS OF PACIFIC MARITIME ASSOCIATION, MARCH 8, 1961)

[13] Time: March 9, 1961—10:00 A.M.

Place: 16 California Street, Room 202

\* \* \*

[16] REPORT OF COMMITTEE ON FUNDING: The report of this Committee was presented to the President under date of March 3, 1961, containing the following recommendations:

1. That empty Army conexes be placed on the same basis for assessment purposes as empty commercial containers owned by steamship carriers.

2. That Army conexes containing cargo be assessed in the same manner as commercial containers moving in the trade; namely, on a manifested measurement or (weight, as the case may be) basis of the cargo therein contained.

[17] 3. That coastwise cargo be assessed in the traditional manner at the rate of one-half of the Work Improvement Fund rate for offshore and intercoastal cargo; that is, a single ton of coastwise cargo would pay a total of  $27\frac{1}{2}\%$  assessment, one-half at the point of loading and the other half at the point of discharge.

4. The Committee recommends no change in the method of assessment of the other cargoes discussed in their report.

It was moved, seconded and carried that the changes as recommended by the Committee on Funding be approved.

*Exhibit 2-L*

The Chairman stated that W. R. Chamberlin & Co. will be placed in a non-competitive position if non-members of PMA reach a different settlement with the ILWU. The ILWU has been contacted and said they will reach no different agreement with non-members.

\* \* \*

[18] MODERNIZATION AND IMPROVEMENT FUND—METHOD OF CONTRIBUTIONS: The Chairman explained that the Bureau of Internal Revenue has indicated, through counsel, that in order to secure deductibility [19] of contributions on a tonnage basis to the Fund, such contributions will have to be made by the employers of the various employees who will derive benefits from these contributions. This method would vary from the previous action taken by the Board of Directors in this matter when a motion was passed to the effect that contributions would be made in the same manner as those being made to the Association for tonnage dues purposes, which was by the member steamship companies or by the contracting stevedores reporting tonnages for non-member steamship companies.

In order to guarantee deductibility of contributions it is now necessary to modify the reporting and payment procedures in such a way that the contracting stevedore will make the contributions to the Association, not only for tonnage handled for member companies, but also for non-members.

It was moved and seconded that the member contracting stevedores will make contributions to the Association on a tonnage basis to the Modernization and Improvement Fund for member steamship companies, as well as non-member steamship companies. The motion was amended with the consent of the second that the steamship companies will send a check to the contracting stevedore at the same time as the advice notice is sent.



*Exhibit 2-L*

During discussion of the motion and the amendment the suggestion was made that the check should be drawn jointly to the stevedore and to the Fund. Suggestions were likewise made to the effect that the steamship companies be asked to make funds available to their stevedores for the payments. Following discussion vote on the motion was taken and the motion carried.

[20] The Chairman also referred to the current difficulties being experienced by the Treasurer in collecting the contributions to the Mechanization and Modernization Fund.

• Meeting adjourned at 12:15 P. M.

/s/ J. A. Robertson  
J. A. ROBERTSON,  
Secretary.

JAR:ah

**Exhibit 2-N**

(MINUTES OF MEETING OF BOARD OF DIRECTORS  
PACIFIC MARITIME ASSOCIATION, JANUARY 16, 1961)

[1] Meeting No. 3

Time: January 16, 1961—11:00 A.M.

Place: 16 California Street—Room 202

Present: *Directors*

Messrs. W. B. Adams  
J. Wyand  
S. F. Alioto  
David Lindstedt  
George B. Schirmer  
Harmon K. Howard  
Charles L. Tilley

*Alternates*

Messrs. Dale E. Collins  
W. L. Horvitz  
John Knox  
David Gregory  
E. H. Gluck  
Hubert Brown  
J. F. Byrne  
C. R. Redlich

Also

Present: Mr. John Page

Staff: Messrs. J. Paul St. Sure  
K. F. Saysette  
Pres Lancaster  
J. A. Robertson

A quorum being present the meeting was called to order  
by the Chairman at 11:05 A.M.

*Exhibit 2-N*

The Chairman stated that by letter to the Board of Directors dated January 12, 1961, it was explained that at a Membership Meeting on January 10, 1961, a question was raised as to the definition of bulk cargoes, and whether scrap iron, pig iron and steel shavings should be considered as bulk. This question was left to the determination of the Board of Directors.

2 [2] The Chairman stated that by definition for tariff purposes scrap iron and pig iron are bulk commodities. The tariff definition reads in part "... which by nature of their unsegregated mass are usually handled by shovels, scoops, buckets, forks, magnets or other mechanical conveyors and which are loaded or unloaded and carried without wrapper or container and received and delivered by carriers without transportation mark or count." A number of telegrams and letters have been received on this matter of the classification of scrap.

It was pointed out that if scrap was classified as a bulk commodity, the general cargo rate for contributions would become 27½ cents rather than 26¾ cents, and the bulk rate would be 5½ cents.

Considerable discussion then ensued, and it was mentioned that if one commodity is changed, there might be others raised for similar consideration. Automobiles had already been the subject of discussion. The suggestion was made that the Sub-Committee for the determination of the method of funding be called back into session immediately to review the entire question, and to issue a report to the Membership 30 days prior to the six month review date.

It was moved and seconded that unpackaged scrap metal, such as scrap iron and pig iron, handled by shovels, scoops, buckets, forks, magnets or mechanical conveyor and not in containers which are loaded or unloaded and carried without wrapper or container and without transportation mark or count is to be classified as a bulk cargo, and that the

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*Exhibit 2-N*

rate of contribution to the Fund be 27½ cents on general cargo and 5½ cents on bulk cargo effective as of January 16, 1961.

[3] Vote on the motion: 12—yes  
0—no  
3—withheld

Motion carried.

It was agreed that the present Sub-Committee on funding, or a new Committee, would begin functioning immediately.

It was agreed that the tonnage declarations made by companies are to be made in exactly the same manner as manifested and reported during the year 1959, and any changed method of manifesting from that date will not be valid for reporting tonnages covering the fund contributions. It was further agreed that the Association assessment as to the inclusion of scrap metal in the bulk classification will be changed in conformity with the motion.

It was agreed that the Association may employ certified public accountants to check tonnage declarations made by companies to substantiate the tonnage declarations and contributions paid.

It was reported to the Board of Directors that the Association will refund to contributing Direct Employers the contributions paid on the basis of 6½ cents per manhour from June 15, 1960 to December 31, 1960, and that the 6½ cents per manhour contribution has been discontinued as of January 2, 1961.

It was agreed that the contributions to the Fund will be effective as of January 16, 1961 on all vessels which have commenced loading or discharging cargoes on and after that date. Any operation which started prior to January 16, 1961 will not be affected by the contribution.

[4] It was pointed out that there will be no changes in operation under the new Agreement until notice is received

*Exhibit 2-O*

from the Coast Steering Committee. The Coast Steering Committee will attempt to make changes effective January 30, 1961.

Meeting adjourned at 12:20 P.M.

J. A. ROBERTSON  
Secretary

JAR:ah

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**Exhibit 2-O**

(MINUTES OF MEETING

OF

MEMBERS

OF

PACIFIC MARITIME ASSOCIATION, JANUARY 10, 1961)

[1] Meeting No. 2

Time: January 10, 1961—10:00 A.M.

Place: 16 California Street—Room 202

Present:

*Company*

*Messrs.*

T. W. Buchholz  
E. F. Ebbey  
George B. Plant  
R. C. Clapp  
Jens Feragen  
Jens Feragen

Elliott J. Spear  
Elliott J. Spear

Metropolitan Stevedore Company  
California Steve. & Ballast Co.  
M & R Services, Inc.  
Rothschild-International Steve.  
Fred Olsen Line Agency, Ltd.  
Maersk Line (Fred Olsen Line  
Agency, Ltd., Agents)  
N.Y.K. Line  
International Terminals, L.A.



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*Exhibit 2-O**Messrs.**Company*

David Lindstedt	Blue Star Line, Inc.
S. F. Alioto	Interocean Line
S. F. Alioto	Crescent Wharf & Warehouse
S. F. Alioto	Outer Harbor Dock & Wharf, Inc.
Hubert Brown	Pacific Far East Line
Peter N. Teige	American President Lines
J. C. Strittmatter	Consolidated Stevedoring Co.
Gohda Yamada	Mitsui Line
J. E. Slevin	
W. K. Varcoe	Williams, Dimond & Co.
G. Eberhard	Seaboard Stevedoring Corp.
G. Eberhard	Pacific Ports Service Co.
J. F. Byrne	American Mail Line
W. L. Horvitz	Matson Navigation Co.
R. J. Pfeiffer	Matson Navigation Co.
H. B. Copsey	Jones Stevedoring Co.
A. H. Jones	Jones Stevedoring Co.
K. B. Kristensen	East Asiatic Co., Inc.
E. L. Bargones	Transpacific Transportation Co.
E. L. Bargones	Pacific Oriental Terminal Co.
E. L. Bargones	Indies Terminal Co.
A. L. Wise	Kerr Steamship Company
A. L. Wise	Kawasaki Kisen Kaisha, Ltd.
F. R. Noyes	States Marine Lines
J. B. Wyand	Luckenbach SS Co., Inc.
J. C. Gallagher	Associated Banning Co.
H. P. Schnitler	States Steamship Company
H. P. Schnitler	Pacific Atlantic SS Co.
H. P. Schnitler	Portland Stevedoring Co.
J. F. Litz	Interocean Line
Harmon K. Howard	Howard Terminal
G. Jones	Jones Stevedoring Co.
J. W. M. Schorer	Holland-America Line
O. I. M. Porton	Royal Mail Lines, Ltd.

*Exhibit 2-O**Messrs.*

James West  
 George Littlejohn  
 George Littlejohn  
 [2] D. Ward  
 E. H. Gluck  
 W. B. Adams  
 Frank Domingo  
 S. J. Meyer  
 W. L. Treverton  
 H. B. Harris  
 H. B. Harris  
 Ian Back  
 R. Fielding  
 R. Fielding  
 R. Fielding  
 R. Fielding  
 Robert Douglas  
 C. R. Redlich \*  
 E. G. Horsman \*

Daniel K. Moore  
 Daniel K. Moore  
 David Gregory  
 David Gregory  
 David Gregory  
 W. G. Fahy, Jr.  
 C. H. Gielow  
 H. A. Gade  
 Guy Flandreau  
 George B. Schirmer  
 George B. Schirmer  
 George B. Schirmer  
 George B. Schirmer

*Company*

Furness Withy & Co., Ltd.  
 Grace Line  
 Johnson Line  
 American President Lines  
 Moore McCormack  
 Pope & Talbot  
 Parr Richmond Terminal  
 Parr Richmond Terminal  
 Knutsen Line  
 Knutsen Line  
 Lino Lines  
 Union SS Co. of N.Z., Ltd.  
 Balfour, Guthrie & Co., Ltd.  
 Flota Mercante Grancolombiana  
 North German Lloyd  
 Hamburg Amerika Line  
 Encinal Terminals  
 \*Marine Terminals Corporation  
 \*Marine Terminals Corp., of L. A.  
 \*General Stevedore & Ballas  
 \*Bulk Handlers  
 Star Terminal Co.  
 Canadian Gulf Line  
 Olympic Griffiths Lines  
 Olympic Steamship Co., Inc.  
 Salmon Terminals, Inc.  
 S. F. Stevedoring Co.  
 S. F. Stevedoring Co.  
 S. F. Stevedoring Co.  
 French Line  
 Schirmer Steve. Co.  
 Ocean Terminals  
 Yerba Buena Corporation  
 Oregon Steve. Co. \*

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*Exhibit 2-O*

<i>Messrs.</i>	<i>Company</i>
L. R. Richards	Overseas Shipping Co.
John D. Knox	Weyerhaeuser Steamship Co.
John D. Knox	Independent Stevedore Co.
John D. Knox	Humboldt Stevedore Co.
L. R. Richards	Fern-Ville Lines
L. R. Richards	Klaveness Line
L. R. Richards	Barber Line
Allan K. Hulme **	**Pacific Orient Express Line
J. R. Page **	**Pacific Islands Transport Line
	**Italian Line
	**French Line
	**Daido Line

*Also Present:*

R. W. Cabell	International Shipping Co.
Clyde Jacobs	Crown Zellerbach Corp.
L. R. Schinazi, Jr.	Overseas Central Enterprise, Inc.
R. Thaning	Transatlantic S.S. Co.
C. C. Martin	The Standard Slag Co.
R. F. Hubbard	Cargill Inc.

**[3] Staff:**

Messrs. J. Paul St. Sure  
 B. H. Goodenough  
 K. F. Saysette  
 Richard Ernest  
 J. H. Travers  
 Pres Lancaster  
 J. A. Robertson

A quorum being present the meeting was called to order by the Chairman at 10:00 A.M.

DETERMINATION AS TO METHOD OF CONTRIBUTION TO ILWU-PMA MODERNIZATION AND IMPROVEMENT FUND:  
 The Chairman reported that the Board of Directors had previously approved the Agreement between the PMA

*Exhibit 2-O*

and ILWU of October 18, 1960, but had left the question of the method of contributions to the Fund for membership action.

A Sub-Committee to recommend the method of funding has been working for approximately two months and reported to the Board of Directors at its meeting on January 6, 1961. The Board of Directors after considering the Majority and Minority Report of the Sub-Committee voted: "That the collection of the Fund be based on a tonnage formula with all tonnage being treated equally as to rate for a period of six months, and during this interim further studies will be made on this subject."

Considerable discussion then developed concerning the Majority and Minority recommendations of the Committee and the position of the bulk carriers.

It was regularly moved and seconded that the Majority recommendation of the Committee appointed to propose a method for collection of the Fund, calling for a tonnage formula with bulk cargoes at one-fifth the general cargo rate, be adopted, with the understanding that the method of collection will receive continued [4] study and be presented to the Membership again in six months.

The Chairman explained the three recommendations which had been made:

1. *Majority Report* (on which the motion is based)
  - 26¾¢ on general cargo
  - 5½¢ on bulk
2. *Minority Report*
  - 10¢ a ton
  - 12¢ per manhour
3. *Board of Directors*
  - 20¢ a ton

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*Exhibit 2-O*

It was further agreed that the Board of Directors would examine and determine the definition of bulk cargoes.

At this time a secret ballot was taken and the vote was polled as follows:

246	yes
74	no
21	withheld
67	absent

Motion carried by a majority of the total voting strength of the Association Membership.

The Chairman announced that the motion would be construed to mean that if a different method of contribution should be adopted 6 months hence, it would not have retroactive application.

**RATIFICATION OF ILWU-PMA AGREEMENT:**

It was moved, seconded and unanimously carried by voice vote that the Agreement of October 18, 1960, between the PMA and ILWU be ratified.

Meeting adjourned at 11:50 A.M.

/s/ J. A. ROBERTSON  
J. A. Robertson  
Secretary

JAR:ah



**Exhibit 2-P**

(MINUTES OF MEETING  
OF  
BOARD OF DIRECTORS  
PACIFIC MARITIME ASSOCIATION)

[1] Meeting No. 1

Time: January 6, 1961—10:00 A.M.

Place: 16 California Street, Room 202

Present: *Directors*

Messrs. W. B. Adams  
J. Wyand  
Clarence Morse  
S. F. Alioto  
David Lindstedt  
George Schirmer  
Harmon K. Howard

*Alternates*

Messrs. Dale Collins  
W. L. Horvitz  
John Knox  
David Gregory  
E. H. Gluck  
J. W. Dickover  
J. F. Byrne  
C. E. Luddy  
C. H. Gielow  
C. R. Redlich  
G. T. Littlejohn

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*Exhibit 2-P*

Also

Present: Messrs. Hubert Brown  
E. L. Bargones  
F. Weldon  
O. Porton  
P. Tiege  
L. Richards  
J. Page  
E. F. Ebey  
J. Feragen  
I. Back

Staff: Messrs: J. Paul St. Sure  
B. H. Goodenough  
K. F. Saysette  
P. Lancaster  
R. Ernst  
J. A. Robertson

[2] A quorum being present the meeting was called to order by the chairman at 10:10 A.M.

APPLICATIONS FOR MEMBERSHIP: Letter of application dated December 28, 1960, has been received from Kawasaki Kisen Kaisha, Ltd. (Kerr Steamship Company, Inc., General Agents) and letter of application dated January 4, 1961, has been received from Iino Lines (Bakke Steamship Corporation, Agents.)

It was moved, seconded and unanimously carried that these companies be admitted as members of the Association.

RECOMMENDATION AS TO METHOD OF CONTRIBUTION TO ILWU-PMA MODERNIZATION AND IMPROVEMENT FUND: The Chairman reported the ILWU had formally ratified the Agreement and as a result the Association is under considerable pressure to determine the method of assessment for contributions to the Fund, as well as ratification of

*Exhibit 2-P*

the Agreement. The Coast Steering Committee has been meeting on the details of the new Agreement, having met yesterday for an all day session and will meet again this afternoon.

The Board of Directors has received copies of the Subcommittee report as to the method of funding. The report consisted of two documents—a Majority and Minority Report.

A Membership Meeting has been called for Tuesday morning, January 10, 1961, at 10:00 A.M.

Considerable discussion then developed as to the recommendations of the Majority and Minority of the Subcommittee.

It was moved and seconded that the collection of the Fund be based on a tonnage formula with all tonnage being treated equally as to rate for a period of six months, and during this interim further studies will be made on this subject.

[3] Vote on the motion:

Yes	12
No	3
Withheld	3

Motion carried.

Meeting adjourned at 11:50 A.M.

/s/ J. A. ROBERTSON  
J. A. ROBERTSON  
Secretary

JAR:ah